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REMAINDER OF PORTION 366 OF THE FARM ONRUST RIVER NO. 581, DIVISION CALEDON: APPLICATION FOR CONSENT USE, DEPARTURE AND DETERMINATION OF ADMINISTRATIVE PENALTY: MBPLAN ON BEHALF OF OVERBERG HONEY TRUST

RCAL 366/581 (4302/2022)

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30 August 2023

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Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 2 December 2022 by MB Plan on behalf of Overberg Honey Trust on Remainder of Portion 366 of the farm Onrust River No 581, Division Caledon for the following:

- ❖ **Consent uses** in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:
 - to accommodate the existing and to allow for a proposed extension of the agricultural industry to accommodate a honey processing business.
 - to allow for an institution to accommodate a home for the indigent (children's home) in the existing second dwelling.
- ❖ **Departures** in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:
 - to relax the western lateral building line from 10m to 4,45m, to accommodate the existing chicken coop and encroachments of the existing barn and stables.
 - to accommodate the change of use of the existing second barn to allow for storage and production of agricultural processes.
- ❖ **Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law for the unauthorised land use activities as stipulated above.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Site Development Plan is attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Remainder of Portion 366 of the farm Onrust River No 581, Division Caledon is zoned Agriculture Zone 1. The property is situated next to Onrust River Main Road and measures 1,7299ha in extend.

The property is developed with a main dwelling, outbuilding, second dwelling, carport, two barns and stables. There is also existing honey processing, production and packaging on the farm.

4. SUMMARY OF APPLICANT'S MOTIVATION

THE MOTIVATION FOR THE APPLICATION IS AS FOLLOWS:

- The honey processing is in an existing barn and an illegal storage/office building which was erected. The business is for bottling raw honey and processing, production and packaging of honey-based cosmetics and beauty products. It is of a home industry scale. The beekeeping farm operates from Stanford and the honey is transported to this site.
- The property owner was not aware the activities were illegal but applied when a consulting architect informed them as such.
- There are no restrictions in the Title Deed prohibiting this application.
- The agriculture and manufacturing, with specific mention of agri-industrial are important sectors within the Overstrand Municipal area economy and is therefore promoted and supported in terms of the Overstrand Municipal Spatial Development Framework, 2020.
- In line with IDP that has a developmental approach, and economic development and job creation is supported. IDP also promotes social development to improve circumstances and well-being of vulnerable groups.
- Honey processing plant is done from a portion of the first barn with a 96,8m² footprint, and includes two storage areas and a bathroom, and an additional 15,57m² storage area/office was constructed. It is also proposed to convert a further 46,38m² into a workshop for the agricultural industry.
- The institution will be a children's home providing care for maximum four (4) children for which the second dwelling of 80,25m² will be utilized.
- The building line departure to relax the 10m building line to 4,5m is made to accommodate the existing chicken coop, use changes of the barn into agricultural industry as well as minor existing and new alterations to barns and stables exceeding the building line.
- Total footprint of the agricultural industry is 112,37m² in extend. 50 to 75 products are produced daily, with operating hours Monday to Friday 08h00 to 15h00. The machine for processing is a mixer, tube sealer and bottling machine.
- Only the small truck delivering the honey from Stanford and fast way courier make one trip a day to the site. Two parking/loading bays is thus provided.
- No services upgrades area required.
- Any conditions from DOT or the Municipal Engineering Branch will be accommodated.
- Only four (4) children under the age of 5-years will be accommodated in the institution. There will be three (3) house mothers, of which one (1) will be present during the night. The house mothers will have their own transport, and two (2) parking bays are provided

DETERMINATION OF ADMINISTRATIVE PENALTY:

a) Nature, duration, gravity, and extent of the contravention

The illegal agricultural industry is operated out of 96,8m² of an existing barn and an additional area of 15,57m² was constructed also for the administration of the agricultural industry.

The encroachment over the building line is a chicken coop over the 10m building line up to 4,5m as well as minor alterations and barn conversions.

b) *The conduct of the person (allegedly) involved in the contravention*

The existing barn and stables were constructed by the previous property owner. The existing owner made internal changes and constructed the area between the first and second barn.

c) *Report by a quantity surveyor in matters of unauthorised building/construction*

Due to the nature, scale, and immediate impact of the contraventions as well as the application to waive/minimize the administrative penalty, a report by a quantity surveyor is considered non-applicable.

d) *Whether the unlawful conduct was stopped*

The current Agricultural Industry is still operating.

e) *Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law*

No, not according to the current owner.

DESIRABILITY

The agricultural industry is desirable as it creates jobs, it creates environmentally friendly products, the industry create no noise, hindrance or pollution of any kind and it is compatible with surrounding land-uses. It also generates no real increase in traffic and creates no waste products. No complaints have been received from neighbours and it provides an income to a property not viable to be farmed commercially. Further the application is consistent with policy by supporting economic development which would help alleviate poverty.

The institution is desirable as it is consistent with policy, it will provide a service to the most vulnerable groups, will improve the babies' lives in a healthy farm environment. There is a need for such institutions in the greater Hermanus, will create employment to three house mothers with no real increase in traffic.

The building line departure is desirable as it will not create a material impact such as noise, air pollution or odours on the adjacent property to the west, and the boundary is lined with trees which will prevent impact or intrusion on privacy. The barns and stables have been in existence for many years, and it is in line the surrounding character as other surrounding agricultural properties have buildings closer than 10m from the boundary.

SPLUMA PRINCIPLES

The application is measured against the principles in terms of Section 42 of SPLUMA, as follows:

Spatial Justice

The agricultural industry will also create jobs for the previously disadvantage and the institution will help protect abandoned babies from poor and needy families.

Spatial Sustainability

No additional agricultural land will be occupied. The farm is too small to be farmed commercially. The agricultural industry is considered sustainable as it is environmentally friendly. There is also a great need for children's homes, and it is thus sustainable.

Efficiency

Existing buildings/structures will be used to create income and job opportunities and improve lives.

Spatial Resilience

Consistent with this principle.

Good Administration

A good streamlined public participation process was followed by the municipality.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Registered notices	Yes	10 February 2023	17 March 2023
Internal departments	Yes	10 February 2023	17 March 2023
Ward councillor	Yes	10 February 2023	17 March 2023
Total comments	ONE (1)		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 – 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Building Control	14/02/2023	No objection.
Fire Department	27/03/2023	No objection.
Overberg District Municipality: Health Department	27/03/2023	Approved.
Municipal: Environmental Management Services	10/05/2023	No objection.
Engineering Services	23/02/2023	See Annexure F.

Eskom	28/03/2023	See Annexure G.
Cape Nature	05/04/2023	See Annexure H.
Western Cape Government: Transport & Public Works	20/12/2022	See Annexure I.
Western Cape Government: Agriculture	26/04/2023	See Annexure J.
BGCMA	19/05/2023	See Annexure K.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION.

One (1) letter of objection was received during the public participation process and the applicant was provided with an opportunity to respond to the objections. See Annexures D and E respectively.

The objections, applicant's response and Municipal Town Planner's response can be summarized as follows:

OBJECTION 1

Not in line with the Overstrand Growth Management Strategy, 2010, (OGMS) which earmark the property for block development for the establishment of free-standing simplex type housing units.

APPLICANT'S RESPONSE

The Overstrand Municipality Growth Management Strategy, 2010 is a guide to decision making regarding densification, community related facilities and civil services, and does not relate to business or institutional development, detailed land use descriptions or consent uses. No densification, new development or new buildings are proposed.

Limited business and community land are allowed in residential and peri-residential areas.

The purpose of the OMGMS is misunderstood and misinterpreted and does not relate to the nature and scale of this application. The proposed uses are allowed as consent uses under the Agriculture Zone I zone.

In future the area could still be developed in line with the OMGMS.

TOWN PLANNER'S RESPONSE

The objection and applicants' response are noted. The applicant's opinion is supported in that the OMGMS is a guideline document. It does not give rights or take rights away.

The uses applied for is then also uses that is usually accommodated on farmland.

The difference being with this smallholding is that it is situated within the urban edge. The fact is that the last smallholdings that can still be developed for residential purposes will rely on each other to ensure access over each other's property, and this will be a major factor at development stage.

The applicant's response is thus supported, but the forward planning aims for this area must still be ensured in some way.

OBJECTION 2

“Although the subject property is zoned Agriculture, the proposed uses are in stark contrast to the residential character of the area.”

APPLICANT'S RESPONSE

The comment is flawed, as the surrounding properties are smallholdings, with residential elements but also have non-residential uses. A small-scale home for the indigent is also mostly residential in nature, and compatible with the area.

Even residential properties have rights to have a home occupation. The scale of the proposal is low impact with no new buildings proposed, it is not open to the public and proportionate to the scale of the property size and compatible with the character of the surrounding area.

TOWN PLANNER'S RESPONSE

The comments are noted.

The property is bordered by smallholdings to the east and west, the Onrust River to the south and the R43 Provincial Road to the north. There are retirement villages and group housing development north of the R43 Main Road.

The character of the area can thus be considered as a mixed-use character.

The proposed uses are then also allowed as consent uses under Agriculture Zone I and is thus considered compatible within agricultural areas. However, the farm is situated within an urban edge and surrounded by residential type developments.

The proposed institution is of a very small scale and only will cater for four (4) children under the age of 5. This is compatible with the surrounding area as a creche for five (5) children is a primary right on a Residential Zone 1 erf.

It is the opinion that the proposed Agricultural Industry is the major concern regarding impact on the character of the surrounding area. An industry is usually allowed on industrial land or on farmland where its impact would be low as it is far away from surrounding properties.

This application is a bit of a unique application. The farm is situated in an urban area but is still however buffered by smallholdings. The specific old barns and buildings proposed to be used for the Agricultural Industry is situated a minimum distance of 90m from residential erven.

The above-mentioned distance does sound sufficient, but the scale and type of activity must also be considered. The activities include mixing and blending of honey-based products. The activities are low in noise levels with no real smell or waste products. Considering that the activities have been on the property for at least 1-year, and no complaints have been received from surrounding property owners, it is safe to assume the impact on the surrounding area is minimal.

The activities are also all in old or new portions of buildings, and the footprint for the industry is only 112m². This ensures that there is minimum impact on surrounding properties.

Considering the above, the character of the area has not been negatively affected by the activities.

OBJECTION 3

“The proposal to establish a small care centre for indigent children up to the age of 5, four children at a time, is regarded as not being desirable. We are concerned that the welfare of the children may not be the primary focus and where children concern, it should be done in a focused and structured facility and not as an ancillary use to a farming establishment.”

APPLICANT’S RESPONSE

There are strict requirements to operate such a facility and the staff will be suitably and sufficiently qualified. Studies have shown children develop better in smaller groups with personalised care.

The facility will function as a regular home, on a farm with farm animals and open space.

The objector’s statements are unfounded, undermine the credibility of the owners, the NPO and the proposal.

TOWN PLANNER’S RESPONSE

The applicant sufficiently addressed the objector’s concerns.

The application was sent to Hermanus Child & Family Services, and they had no objection to the application, and only stipulated that all statutory processes had to be followed before the childcare facility may operate.

OBJECTION 4

“The motivation also does not address any deviation from the Overstrand Municipal Spatial Development Framework, 2020 or from the Overstrand Growth Management Strategy, 2010, which is an informant to the Spatial Development Framework.”

APPLICANT'S RESPONSE

The proposal is to use the existing buildings optimally. The SDF and OGMS allow for limited business and community land uses within residential and peri-residential areas. The uses applied for is only for consent uses and of a low scale with limited impact on the character of the area.

The area can still be used for development in line with the SDF and OGMS in future. This is a low-impact interim proposal, and the long-term vision is in terms of the SDF and OGMS. The proposal is not in conflict with the SDF and OGMS.

TOWN PLANNER'S RESPONSE

As responded under *OBJECTION 1* the OGMS and SDF does not give or take away rights. At this stage the property has an Agricultural Zoning, and the uses applied for falls within the ambit of uses allowed in agricultural areas. Although this area is within the urban edge and less than 90m from residential properties, it still does not take away the properties potential to be utilized for uses more associated with agricultural uses. It is therefore debatable if it can be stated this application is a deviation of the SDF and OGMS.

However as stated under *OBJECTION 1*, the scale of the development must carefully be considered to ensure that the forward planning aims of the above-mentioned documents are not made impossible due to developments on one property in this area. This will be carefully considered in considering the desirability of this application.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

See Paragraph 7 above.

Internal and external departments

The application was supported by all internal municipal departments and external provincial and semi-state institutions.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)**10.1 Background**

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

The agricultural industry will create jobs even for the previously disadvantaged and the institution will help protect abandoned babies from mostly disadvantaged communities.

Spatial Sustainability

The agricultural industry will be inside mostly existing buildings with no increased use of the agricultural land and with limited environmental impact.

The care facility will address the great need for such facilities in the Greater Hermanus region.

A major expansion of the agricultural industry and such activities for over the long term should however carefully be considered, as it could make it very difficult for this area of Onrust River to be developed for the earmarked residential purposes if this farm is not included in such future planning.

Efficiency

There are existing buildings on the property that is used for the agricultural industry and can be used as a care facility, and the zoning and size of the property gives it potential to be developed for such purposes.

Spatial Resilience

The property is too small to be productively farmed, and the utilization of the existing agricultural buildings on the property helps provide income to maintain the small holding.

Good Administration

Good procedure was followed and with a good public participation process.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The area is indicated for urban development in terms of the Overstrand Municipal Wide SDF, 2020 and is also indicated as densification area with densities up to 20 units per ha in terms of the Overstrand Municipality Spatial Growth Management Strategy, 2010, (GMS) which is a guideline document.

The proposal is to apply for consent uses allowed under the existing agricultural zoning of the property. The application is therefore not considered a deviation of the GMS, 2010, but application for mixed land uses as recommended in terms of the SDF, 2020.

The SDF, 2020 and GMS, 2010 does not give rights or take rights away, but it is a long-term vision of what development is recommended in an area in the next 5 to 10 years. As previously indicated any consideration of this application should keep in mind what the long-term vision is for this area and should not hinder the recommended development for this area.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal engineering services

The surrounding area is already serviced, and no additional services will be required for this development.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The surrounding area is mostly agricultural small holdings, with residential development further to the west and north of the R43 Main Road.

The small holding is mostly used for residential purposes, but the property to the east has some activities such as chopping of firewood and making of woodwork craft. No formal application for such activities were ever submitted to the Municipality.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

The property, Remainder of Portion 366 of the farm Onrust River No 581, Division Caledon, is situated next to the Onrust River Main Road, at the R43 crossing opposite Kidbrooke.

The property is developed with a main dwelling, second dwelling, outbuilding with labourer's cottage, two barns and stables with storage areas. The farm itself measures 1,7299ha in extent.

Application is made for a consent use for an agricultural industry. The property owner illegally started operating a Honey processing plant from one of the barns with a footprint of 96,8m², and this includes two storage areas and a bathroom, and an additional 15, 57m² storage area/office was constructed. It is also proposed to convert a further 46,38m² into a workshop for the Agricultural Industry.

The application then also includes a departure to accommodate amendments made to existing buildings over building lines and some new proposed amendments. The barn with the honey processing plant which traverses the 10m building line was illegally altered, a new chicken coop was constructed, and further alterations are proposed to the second barn to accommodate an additional workshop for the honey processing plant. The closest building is 4,45m from the property boundary.

Application is also made for a consent use to allow for an institution to accommodate a home for the indigent in the existing second dwelling. The institution will be a Children's Home providing care for maximum four (4) children for which the second dwelling of 80,25m² will be utilized.

In the public participation process one (1) letter of objection was received. The applicant was provided the opportunity to respond to the application. The objections relate to concerns regarding the character of the area, compliance with forward planning policies and the operation of the children's home.

The concern with regard to the operation of the children's home was duly addressed by the applicant. The application was also circulated to Hermanus Child & Family Services, and they had no objection against the application. The scale of this application is small, and only four (4) babies will be catered for. Existing buildings will also be used. It will have no real impact on neighbours, but the institution will provide an important welfare function for the most vulnerable in the community.

The second concern is the impact of the application on the character of the area. This was discussed in detail under *OBJECTION 2* above. The fact is the scale of the activities and type of activities is such that it would not have a major impact on surrounding property owners or the character of the area. The honey processing plant is already operational, and no objections have been received by the Municipality relating to such activities.

The third concern is that the application is not in line with the SDF, 2020 and GMS, 2010, which identify this area for residential development. As discussed under objection points 1 and 4 above, the application is not considered a deviation of such policies, as this application is for a consent use for a land use usually allowed in terms of the existing zoning of the property, which is Agriculture zone I.

The policy documents do not give rights, but it does steer development in a specific direction. The one concern that the writer has, is that the property owner already wants to extend the footprint of the honey processing plant and considering that there are still some other outbuildings on the property, the concern is that if this becomes a thriving business the property owner would want to extend it further and operate the agricultural industry for many years and at a larger scale.

Considering the placement and size of the small holdings in this area, for future development of this area for residential purposes it will be very difficult to develop the small holdings if one property does not want to form part of such future developments. This fact must be carefully considered when deciding on this application, and it is therefore recommended that the footprint of the honey processing plant be limited to the existing footprint, and that the approval for the honey processing plant be limited to a 5-year period.

It is to be noted that all Municipal and State Departments / Branches support the application.

The increase in traffic will be minimal and the raw honey gets delivered to the property by a small truck once a day and a courier come and fetch the products once per day. On-site parking is also provided for the honey processing plant and institution. The Department of Transport and the Overstrand Municipality Engineering Branch also supports the application.

No new services will be required, and mostly existing buildings will be used for the activities.

DETERMINATION OF ADMINISTRATIVE PENALTY:

a) Nature, duration, gravity, and extent of the contravention

The illegal agricultural industry is operated out of 96,8m² of an existing barn and an additional area of 15,57m² was constructed also for the administration of the agricultural industry.

The encroachment over the building line is a chicken coop over the 10m building line up to 4,5m as well as minor alterations and barn conversions. The portion of the chicken coop over the building line is approximately 18,77m² in extent.

b) The conduct of the person (allegedly) involved in the contravention

The existing barn and stables were constructed by the previous property owner and minor amendments were made to such buildings by the existing property owner, and some of the buildings are used as a honey processing plant. The existing property owner also constructed a new chicken coop over the 10m building line 4,5m from the property boundary.

c) Report by a quantity surveyor in matters of unauthorised building/construction

Due to the nature, scale, and immediate impact of the contraventions as well as the application to waive/minimize the administrative penalty, a report by a quantity surveyor was not considered necessary by the applicant.

d) Whether the unlawful conduct was stopped

The current Agricultural Industry is still operating.

e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law

The applicant indicated not according to the current owner.

Application is made that any penalty fee be waived. The current owner however made illegal construction work over building lines and started operating an Agricultural Industry illegally on his property. There are therefore no mitigating factors why such penalty fee should be waived.

The total footprint of the agricultural industry is 112,37m² in extent. For illegal land uses the **total land value** of the property is used to determine a penalty fee. The Total value of the property is R4 000 000,00, and the property measures 17299m² in extent. The value of 1m² is thus (4 000 000 divided by 17 299) is R231,23. The value per m² multiplied by the total size of the illegal land use area of 112,37m² equates to **R25 983,32**.

Some minor changes were made to the one barn over building lines, but only the chicken coop is a new building over the 1m building line. 18,77m² of the chicken coop has been constructed over the building line. It is a non-habitable building, but no quotes were provided from the applicant prepared by a conveyancer. The standard building cost fee will thus be used to determine the penalty fee, with a further reduction since it is not a habitable structure.

Size of encroachment 18,77m² multiplied by R19 107 (fee per m²) equates to R358638,39. A penalty fee of 10% should be charged as the property owner illegally constructed the structure. The fact that it is a chicken coop it is recommended the fee should be reduced to 2,5%. The penalty fee is R358 638, 39 divided by 100 and multiplied by 2,5 equates to **R8 965,96**.

The total recommended penalty fee to be charged is **R34 949,28**.

The application will not have a major impact on the character of the area or impact surrounding property owners. To ensure the agricultural industry does not impact the areas potential to be developed for residential purposes in future, as earmarked in the forward planning policies, it is recommended that the footprint of the agricultural industry be limited and only approved for a limited time of 5 years.

The application is desirable.

13. RECOMMENDATION

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on the Remainder of Portion 366 of the farm Onrust River No 581, Division Caledon for an agricultural industry to legalize the existing honey processing plant and to allow an Institution to accommodate a home for the indigent (children's home) in the existing second dwelling, **be approved**, in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(b) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on the Remainder of Portion 366 of the farm Onrust River No 581, Division Caledon for a departure to relax the western lateral building line from 10m to 4,45m, to accommodate the existing chicken coop and encroachments of the existing and proposed alterations of the barn and stables and the use change for the area of the honey processing plant, **be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the approvals in Points 1. to 2. above in terms of the provisions of Section 61 of the By-law, be subject to the following conditions:

- (a) that the approval for the Agricultural Industry (honey processing) is limited to the footprint of the existing operation of 112,37m² as indicated on Plan No 581/366.1 to 6 dated 24 October 2022, and no further extension of such footprint is allowed;
- (b) that only the area of the second dwelling as indicated on plan no, 581/366.7 dated 24 October 2022 may be utilized as an Institution (children's care);
- (c) that the institution be restricted to a maximum of 5 children at any given time;
- (d) that the consent use approval of the Agricultural Industry (honey processing) is limited to a 5-year period, and it is not transferable;
- (e) that the building line departures is only applicable to the building extensions/alterations as indicated on plan 581/366. 2 to 6 dated 24 October 2022;
- (f) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
- (g) that building plans be submitted to the Building Control Department of the Municipality in accordance with the amended Site Development Plan, and that any requirements by the Fire- and Building Departments at that stage be complied with;
- (h) that commercial rates and taxes, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
- (i) that the site must have a dedicated waste storage area as per part of the National Building Regulations (SANS 10400), and all refuse must then be removed from the property to a registered dump site;
- (j) that there be compliance with all relevant Health and Fire Regulations;
- (k) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
- (l) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;
- (m) that all conditions in the Services Report (attached as Annexure F), be complied with;
- (n) that all the conditions imposed by Eskom (attached as Annexure G), be complied with;
- (o) that all the conditions by the BGCMA (attached as Annexure K), be complied with,

- (p) that application be made to Department of Social Services (Hermanus Child & Family Services) to obtain approval to operate the institution (childcare facility).
4. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Remainder of Portion 366 of the farm Onrust River No 581, Division Caledon for the unauthorized land use and structures which encroach the building lines, **be imposed**, and that an administrative penalty fee of **R34 949,28** (R25 983,32 plus R8 965,96) be payable within sixty (60) days of the decision.
 5. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 with regard to the above decisions.

14. REASONS FOR RECOMMENDATION

POINTS 1 & 2

- ❖ The application is supported by all relevant Institutions and Municipal and State Departments.
- ❖ The application will not have a negative impact on the character of the area, as the area has a mixed-use character, all activities will be within buildings and have low noise impact, and the property is almost 90m away from residential properties.
- ❖ The proposal is for a consent use which is allowed under the Agricultural Zoning of the property, and therefore the application is not considered a deviation from the Overstrand Municipal Wide SDF, 2020 or the Overstrand Municipal Growth Management Strategy, 2010, which shows this area is earmarked for residential development.
- ❖ The objection does not prove the application to not be desirable and was duly addressed by the applicant.
- ❖ The application will have no heritage or environmental impact and is supported by Cape Nature and the Municipal Environmental Management Services Branch.
- ❖ The application is in line with the LUPA and SPLUMA general principles, as the proposals are an efficient way to maximize the potential of the property by using existing buildings for agricultural industry and would increase spatial resilience with this additional income from the property. The property is also within the urban edge.
- ❖ The institution (childcare facility) would address a social need for care of the needy.
- ❖ The departure to relax building lines is mostly for building alterations of existing building, and the legalization of a chicken coop constructed by the property owner. The impact of these encroachments is minimal as it is mostly internal and borders a property also zoned Agriculture Zone I.

REASONS FOR RESTRICTING THE DEVELOPMENT

This area is earmarked for Residential development in terms of the Overstrand Municipality SDF, 2020 and Overstrand Municipality Growth Management Strategy, 2010. Although these policies do not give rights or take rights away, it must be considered in relation to the possible long term impact new land uses/development being applied for could have on this long-term planning. The proposal is already to increase the agricultural industry footprint area even further, which shows it would have a longer operation period for the honey processing plant. This could impact the potential of the area to be developed for residential purposes in future. Two conditions that would mitigate this concern is that only the existing honey processing plant of 112,37m² is supported and the consent use for the agricultural industry is only approved for a limited time of five (5) years.

POINT 4

- The existing property owner made building alterations to the farm buildings and illegally started operating an agricultural industry from within such farm buildings.
- The existing property owner also illegally constructed a chicken coop over the building line, without any Town Planning approval or building plan approval.
- There are no mitigating factors for the property owners' actions, and therefore an administrative penalty fee is imposed.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Objection received.
Annexure E:	Applicant's response to objection
Annexure F:	Services Report
Annexure G:	Eskom
Annexure H:	Cape Nature
Annexure I:	Western Cape Government: Transport & Public Works
Annexure J:	Western Cape Government: Agriculture
Annexure K:	BGCMA

SIGNATURES**AUTHOR:**

Name: **HENK OLIVIER**

SACPLAN Reg No: **B/8128/2004**

Signature: _____

Date: _____

REGISTERED PLANNERName: **S VAN DER MERWE**SACPLAN Reg No: **A/1850/2014**

Signature: _____

Date: _____

1. INTRODUCTION

1.1. BRIEF

MBPlan Town Planning was appointed by the Overberg Honey Trust to prepare and submit an application for a consent use for Agricultural Industry and Institution, departure of the western side building line and the determination of an administrative penalty for the Remainder of Portion 366 of Farm 581 Onrus River, in terms of the relevant legislation.

1.2. BACKGROUND

The application area consists of a 1.7299 ha small-holding located at the intersection of Onrus Main Road and the R43 in Onrus. The application area is one of five erven zoned for Agricultural Zone 1, located between the Onrus Main Road and R43 to the north and the Onrus River to the south.

The application area consists of the following **existing approved** buildings/land uses namely:

- Main Dwelling
- Outbuilding
- Second Dwelling
- Carport
- Two Barns
- Stables

Existing unapproved buildings include a Storage/Office building and a Chicken Coop, to be indicated on updated building plans.

The western side building line is exceeded by the two barns, the stables and the chicken coop.

The following land-uses are **proposed** on the property namely:

- Institution: Home for the Indigent for which the second dwelling will be converted.
- Workroom to form part of a potential future extension of the existing Agricultural Industry for which a portion of the first barn will be converted and which will exceed the building line.
- Garage for which a portion of the first barn will be converted.
- Garden Store and Wash Closet for which a portion of the stables will be converted and which will exceed the building line.

The following existing land-use on the property is proposed to be **legalised** namely:

- Agricultural Industry for a honey processing business for which the second barn has been converted and a Storage/Office building was erected, without prior approval.

The honey business consists of the bottling of raw edible honey and the processing, production and packaging of honey-based cosmetics and beauty products. The agricultural industry operates on the scale of a home industry/small agricultural related business.

Overberg Honey Co is a family-owned beekeeping business specialising in the pollination of fruit and vegetables and the production of honey and bee products.

The beekeeping business/factory operates from a farm in Stanford, where the honey is extracted, processed and packaged in large containers.

From here it is transported to the application area where the honey and other bee products are processed to produce the HoneySuckle range of natural hand-made cosmetics and beauty products and where the raw edible honey is bottled.

The raw edible honey and honey based cosmetics and beauty products are offered for sale online and through the stores in Stanford, Hermanus & Grabouw.

2. CONTEXTUAL INFORMATION

2.1. PROPERTY DESCRIPTION & OWNERSHIP

Property Description: Remainder of Portion 366 of Farm 581 Onrust River

Owner: Overberg Honey Trust (Registration number IT16/2013(K))

Title Deed: 44386/2020

Bond: SB Guarantee Company (RF) (PTY) LTD (Bond number: B25044/2020)

Area: 1.7299 ha

2.1.1. TITLE DEED

The Conveyancer Louis Rudolph Le Roux from Fairbridges Wertheim Becker issued a certificate confirming that no restrictive title deed conditions exist against the proposal for a consent use for Agricultural Industry, a consent use for Institution and a departure to relax the western side building line on the Remainder of Portion 366 of Farm 581 Onrust River.

2.1.2. SURVEYOR GENERAL DIAGRAM

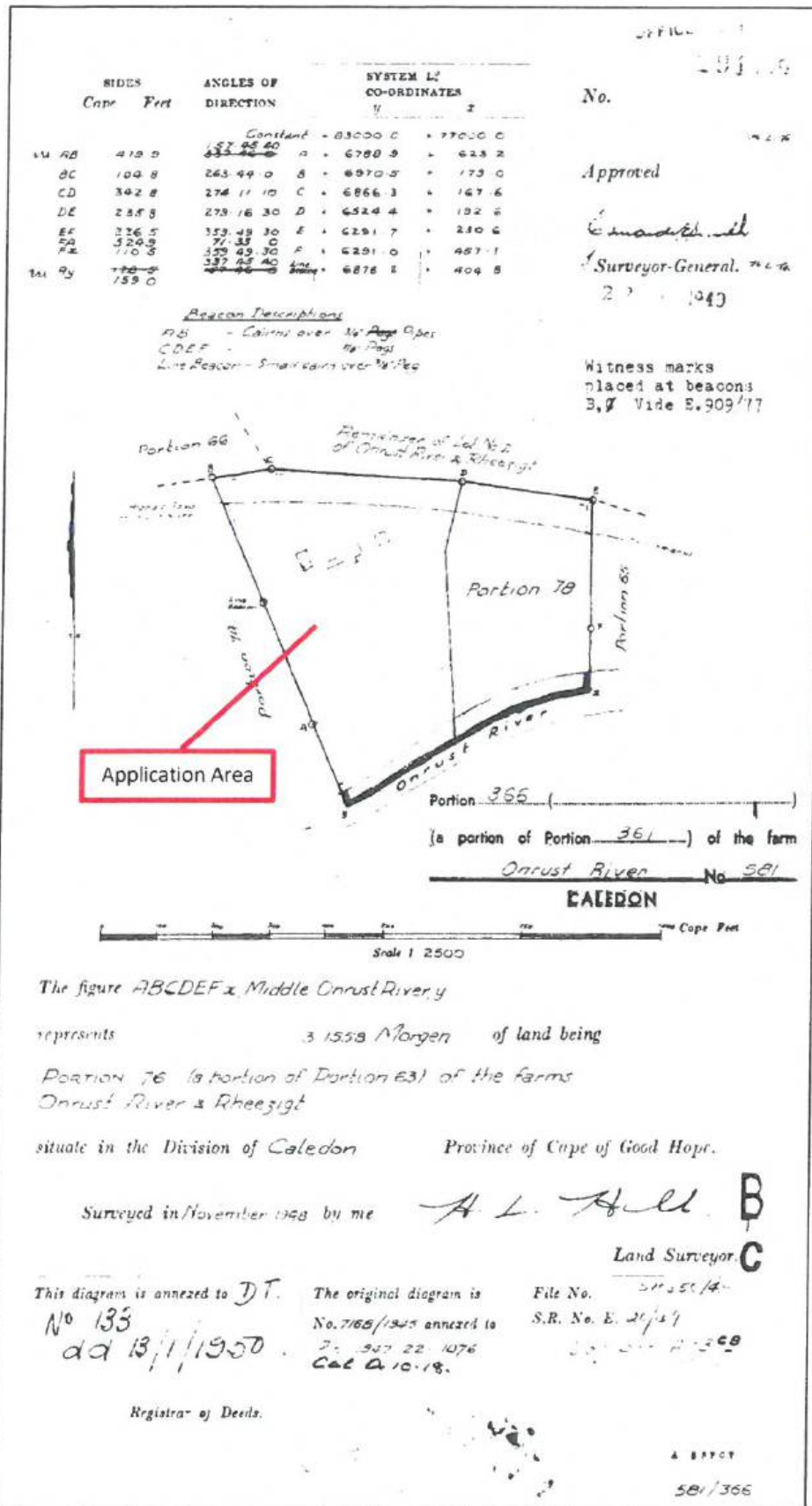


Figure 2: Surveyor General Diagram

Refer to Annexure D for the Surveyor General Diagrams.

2.2. LOCALITY

2.2.1. REGIONAL CONTEXT

From a regional perspective, the application area is within Onrus, a suburb located approximately 5km west of the Hermanus CBD. Onrus is primarily residential in nature.

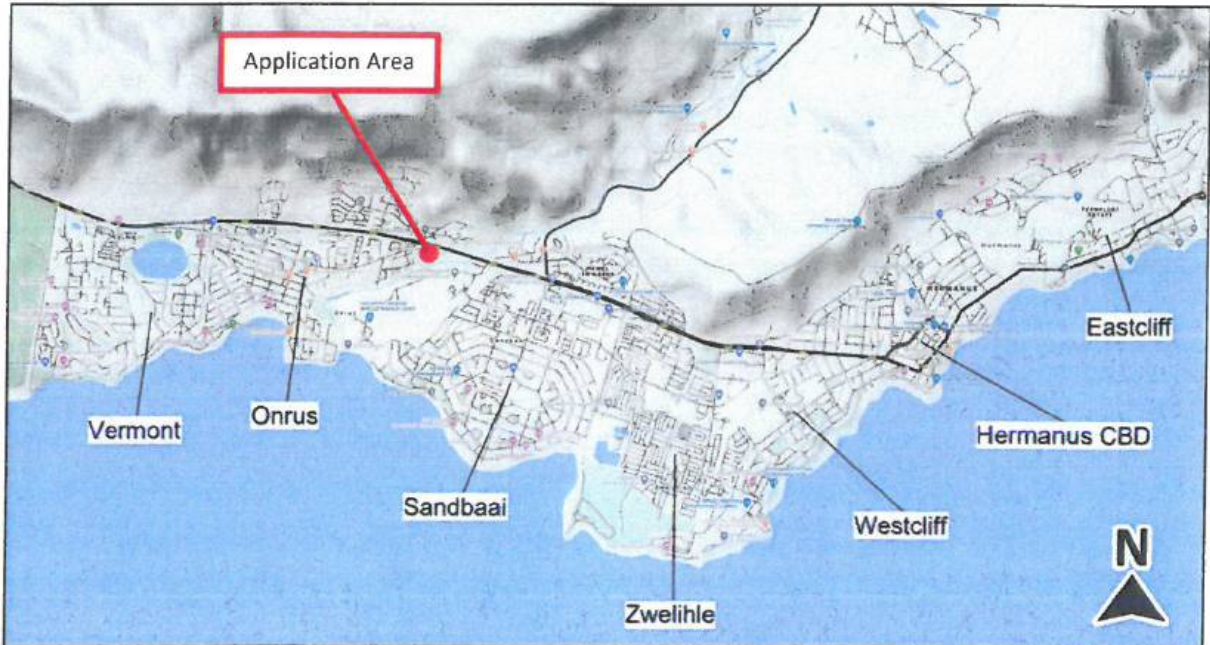


Figure 3: Regional Context

2.2.2. LOCAL CONTEXT

From a local perspective, the application area is a smallholding at the intersection of Onrus Main Road and the R43.



Figure 4: Local Context

Refer to Annexure E for the locality plans.

2.3. ZONING

2.3.1. ZONING PLAN

The application area is zoned Agriculture Zone 1: Agriculture. The surrounding erven are zoned Agriculture Zone 1, General Residential Zone 1, Resort Zone and Open Space Zone 2. The application area is consistent with the zoning of the area.

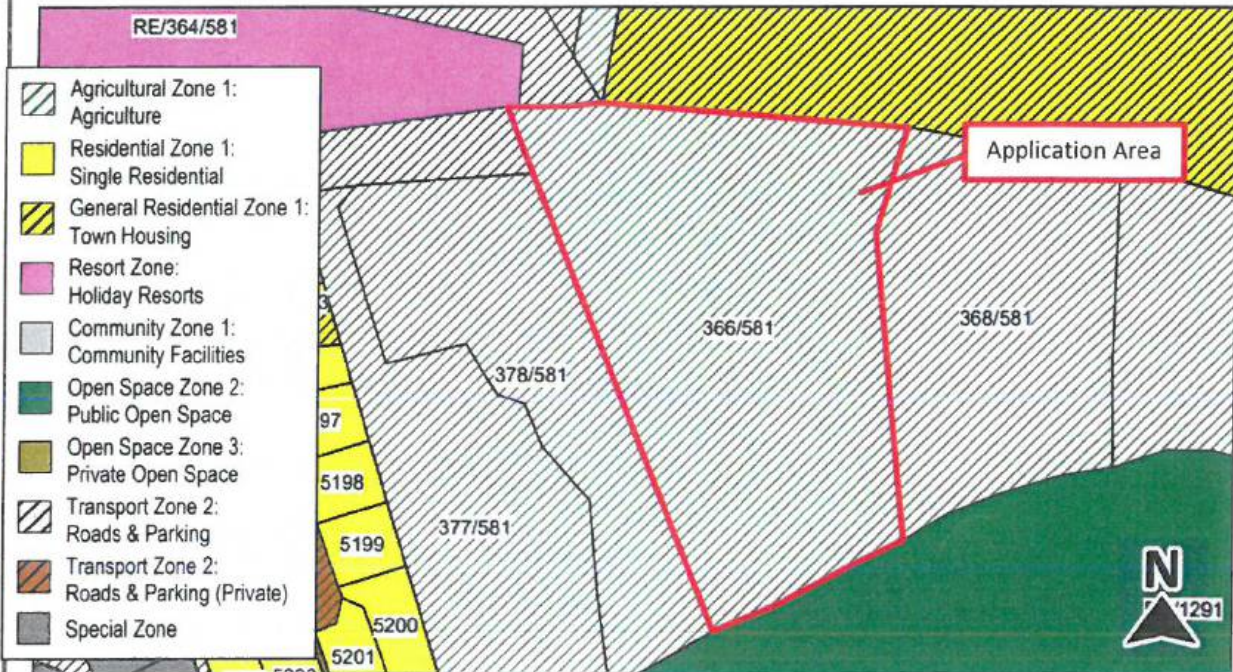


Figure 5: Zoning Plan

Refer to Annexure F for the zoning plan.

2.3.2. ZONING CRITERIA

Criteria	Existing Zoning	Proposal	Comments
Zoning	Agriculture Zone 1: Agriculture	Agriculture Zone 1: Agriculture	Consistent
Primary Uses	Agriculture, crèche, dwelling house, guest rooms and home occupation	Agriculture, dwelling house	Consistent
Consent Uses	Additional dwelling units, agricultural industry, animal care centre, aquaculture, day care centre, farm shop/stall, fertiliser plant, guest house, hotel, institution, intensive animal farming, intensive horticulture, lodge, mining, place of assembly, place of entertainment, place of instruction, plant nursery, riding stables, service trade, tourist accommodation, tourist facilities, transmission apparatus, utility services, wellness centre and 4x4 trail.	Additional dwelling (already approved) <u>Agricultural Industry, Institution</u> (proposed)	Application includes consent uses
Floor Space	5000m ²	827m ²	Consistent
Height	Agricultural buildings: 12m Dwellings: 8m	<8m	Consistent
Building lines	Street, side & rear: 10m	10m <u>4.45m west side building line</u>	Application includes a departure
Parking	Dwelling house: 2 bays Second dwellings: 1 bay Offices: 4 bays per 100m ² Industry, warehouse & storage: 2 bays per 100m ² GLA up to 500m ² , thereafter one per 100m ² GLA.	8 bays required & 8 bays provided	Consistent

2.3.3. ZONING SCHEME DEFINITIONS

“**agriculture**” means the cultivation of land for crops and plants, including plantations, the keeping and breeding of animals, beekeeping, bird farming or the operation of a game farm, may comprise natural veld and includes only such activities and buildings as are reasonably connected to the main farming activities such as residential accommodation for the farmer, farm manager and farm labourers and the packing of agricultural produce grown on the property but excludes intensive horticulture, intensive animal farming, agricultural industry, and a farm shop;

“**agricultural industry**” means an enterprise for the processing of agricultural related products on or close to the land unit where these agricultural products, whether land or marine-based (such as aquaculture), are grown, harvested and raised where processing in such proximity is necessary due to the nature, perishability and fragility of such agricultural products or promotion of tourism related activities, and includes, inter alia, dairies, wineries, distilleries, olive processing facilities, breweries and other facilities required for the processing of agricultural products where produce packed is not produced on the land unit but does not include service trades;

“**institution**” means a property used as a social, health or welfare facility or for the administration thereof and includes a hospital; special needs school; clinic; homes for the aged, indigent or handicapped; and a reformatory or place of detention, whether of commercial or charitable nature, but does not include a jail;

2.4. LAWS AND POLICIES APPLICABLE TO THE APPLICATION

2.4.1. OVERSTRAND MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK, 2020

“3.7 AN OVERSTRAND THAT ENABLES A PROSPEROUS AND DIVERSE ECONOMY

Where we want to be in 2050

Although agriculture and tourism remain important sectors of the local economy, the expansion of existing and the introduction of additional sectors transform the Overstrand economy into one that is prosperous, diverse and resilient. Overstrand values and preserves its rural and natural environments and maintains a thriving rural sector that contributes to local and export markets.

A diversity of agricultural, tourism, commercial and industrial activities occur in strategic locations throughout the Overstrand’s rural and urban settlements, providing a range of local employment opportunities.

OBJECTIVE	POLICIES
<i>ECO 2. Overstrand maintains and grows a strong rural economy based on its agricultural sector.</i>	<i>ii. Provide appropriately located land for industries producing value-adding products.</i> <i>iii. Encourage and facilitate the introduction of new agri-industries in areas with locational advantages.</i>
<i>ECO 8. Support the expansion and retention of the Overstrand’s existing local businesses and generating new local economic / business opportunities.</i>	<i>ii. Making local markets work well by creating places and opportunities to match supply and demand.”</i>

Conclusion

The agriculture and manufacturing, with specific mention of agri-industries are important sectors within the Overstrand Municipal area economy and is therefore promoted and supported.

2.4.2. 5 YEAR INTEGRATED DEVELOPMENT PLAN 2ND REVIEW 2019

“3.4 LOCAL ECONOMIC DEVELOPMENT

The main economic drivers in the Municipal area are:

- *Tourism*
- *Aquaculture / Agriculture*
- *Manufacturing*
- *Finance, real estate and business services*
- *Secondary service industry*

Key Economic Activities	Description
<u>Aquaculture / Agriculture</u>	<u>The thriving agriculture sector includes the ever growing wine industry and with the decline in the sector, the sector shed a significant number of jobs over the years.</u>
<u>Manufacturing</u>	<u>Manufacturing activities have grown moderately in the past year, given the sector's ability to contribute to employment creation in the area. The Overstrand has a thriving (light) manufacturing industry which bodes well with its ability to create jobs. Potential exist in the beneficiation of commodities for export and alignment of sectors to ensure product offering.</u>

KPA 5 – SOCIAL UPLIFTMENT AND ECONOMIC DEVELOPMENT

KPA OS 5 (c)

Local Economic Development (LED) and Tourism

Refer to the LED Chapter 9 in this document. (see extracts below)

KPA OS 5 (d)

Social Development in a municipal context

Social development can be defined as a planned process, and an approach to the transformation of society that allows holistic development processes to take place towards the reduction or eradication of poverty, inequality and uneven or under development. Social development is thus a multidimensional process to achieve positive social change.

Social development is therefore necessarily a holistic and integrated approach to social and economic development that involves many different sectors. Local economic development, infrastructure development, health, environmental development housing, access to basic services, social relief, disaster management, public works and employment creation, skills development, improved livelihoods and community services for vulnerable groups are integral to the eradication of poverty.

The municipality has a key social development role to play through designing an integrated and holistic approach that recognizes the special needs of vulnerable groups, i.e.: children, youth, women, people with disabilities, the elderly and people infected and affected by HIV/AIDS. Ensuring that these vulnerable groups have access to services and opportunities are particularly important from a social development perspective.

Government, the private sector and civil society are invited to work with the municipality in an open and coordinated approach to alleviate and improve the conditions of the marginalised groups. Efforts to improve their lives must be complemented through collaboration between stakeholders to ensure lasting change.

In general, where possible, we will assist organisations delivering services to the most vulnerable groups in our communities.

Chapter 9: Local Economic Development

Local Government as the closest sphere to the people has a constitutional mandate to undertake a developmental approach when implementing policies. Therefore through LED local government can meet the basic needs of the people by establishing an environment (whether directly or indirectly) that will create jobs and alleviate poverty in a sustainable manner.

3.1 Local Economic Development (LED) Strategy

- Grow the local economy to contribute to development and improvement of lives;
- Develop entrepreneurial communities both within the formal and informal sectors;
- The creation of a conducive environment for the economy to thrive;
- Create an attractive investment environment that enables jobs, skills and resources opportunities; and
- Maintain and support critical sectors and advance competitive advantage."

Conclusion

One of the municipal key planning areas is local economic development. The main economic drivers in the municipality include agriculture and manufacturing (industry). The municipality has a constitutional mandate to undertake a developmental approach when implementing policies and this is done through local economic development. Economic development and job creation is therefore supported.

Another municipal key planning area is social development. Social development refers to the upliftment and improvement of circumstances and well-being of vulnerable groups, especially in relation to poverty. The municipality supports social development and will assist organisations delivering services to the most vulnerable groups where possible.

2.4.3. OVERSTRAND MUNICIPALITY AMENDMENT BY-LAW ON MUNICIPAL LAND USE PLANNING, 2020

"90. Application for administrative penalty

- (1) *A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.*
- (2) *A person making an application contemplated in Subsection (1) must –*
 - (a) *submit an application;*
 - (b) *pay the prescribed fee;*
 - (c) *provide the information contemplated in Subsections (3); and*
 - (d) *comply with the duties of an applicant in Section 84.*
- (3) *The applicant must, to the satisfaction of the Municipality, provide the following information such as-*
 - (a) *the nature, duration, gravity and extent of the contravention;*
 - (b) *the conduct of the person (allegedly) involved in the contravention;*
 - (c) *a report by a quantity surveyor in matters of unauthorised building/construction;*
 - (d) *whether the unlawful conduct was stopped; and*
 - (e) *whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law."*

3. MOTIVATION

3.1. PROPOSAL

3.1.1. DEVELOPMENT OBJECTIVE

The development objective therefore, is to legalise the existing contraventions and for a proposed extension, building line departure and change of land-use on the application area as follows:

- Legalise
 - Existing Agricultural Industry consisting of the bottling of raw edible honey and the processing, production and packaging of honey-based cosmetics and beauty products for which the second barn has been converted and an office has been constructed
 - Existing encroachment of the western 10m side building line up to 4.4m by the chicken coop as well as by minor alterations and a change of land-use to the second barn converted for the Agricultural Industry
- Proposed
 - Extension of the Agricultural Industry by converting a portion of the first barn into a "workroom"
 - Minor alterations to the first barn (workroom) and the stables (bathroom and garden storage) both of which a portion will exceed the 10m western side building line up to 4.7m
 - Use of the approved second dwelling for Institutional use, a Home for the Indigent consisting of a Children's Home which would provide care to a maximum of 4 children at a time

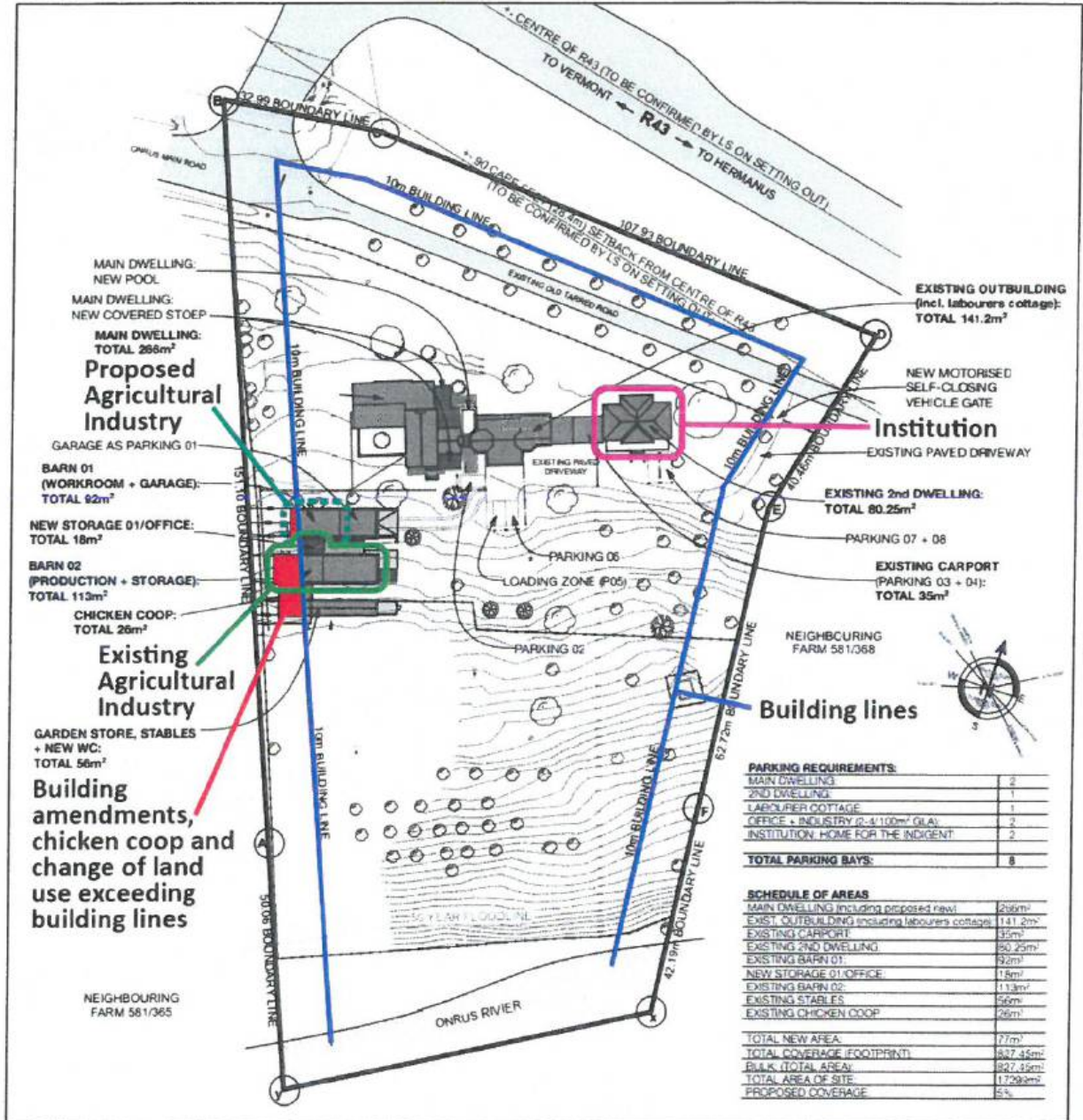
3.1.2. THE APPLICATION

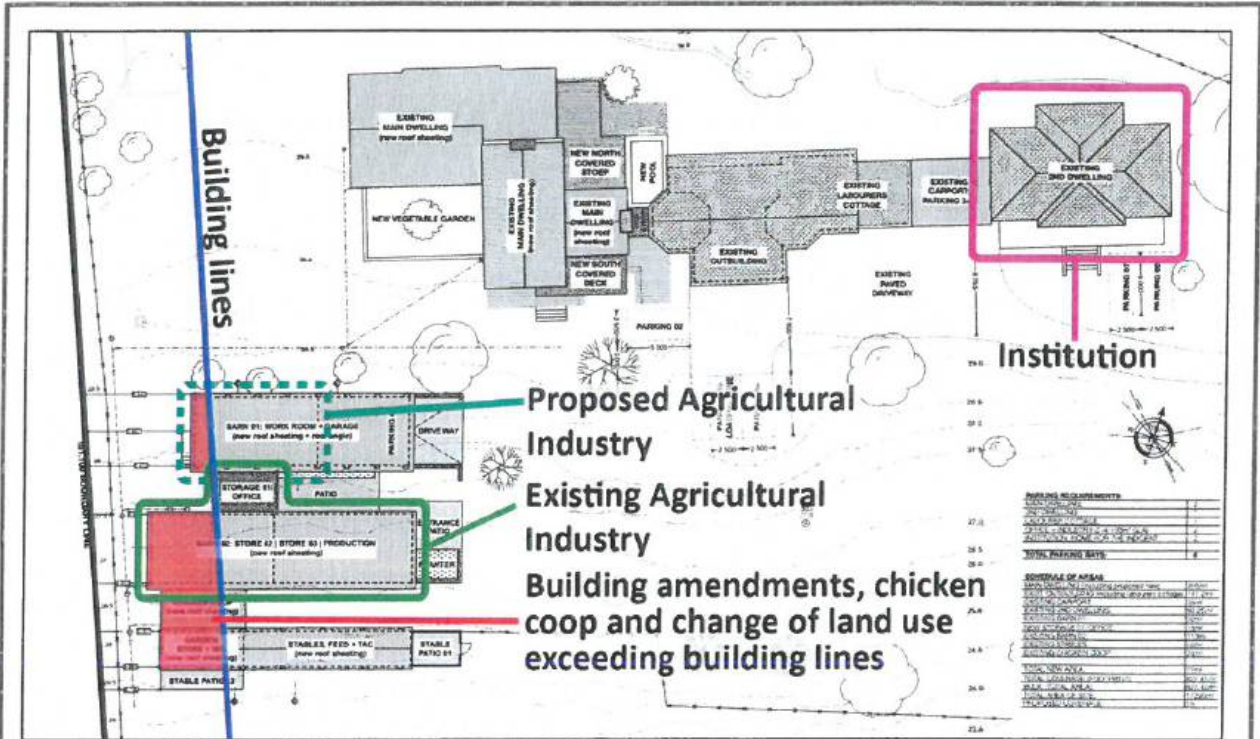
Application is subsequently made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- Consent Use in terms of Chapter IV, Section (16)(2)(o) for the following land uses:
 - Honey processing Agricultural Industry for which the second barn with an extent of 96.8m² has been converted into a production area, two storage areas and a bathroom and for which a 15.57m² storage area/office has been constructed
 - Proposed extension of the Agricultural Industry for which a portion of the first barn is to be converted into a workshop with an extent of 46.38m²
 - "Institution" to accommodate a proposed Home for the Indigent consisting of a Children's Home which provides care to a maximum of 4 children at a time for which the second dwelling with an extent of 80.25m² will be utilised
- Building Line Departure in terms of Chapter IV, Section (16)(2)(b) for the following:
 - Building Line relaxation of the 10m western side building line to 4.4m to accommodate an existing chicken coop, an existing change of land-use to the second barn for the agricultural industry as well as existing and proposed minor alterations to the barns and stables which exceed this building line
- Waiving of the Administrative Penalty in terms of Chapter IV, Section 16(2)(q) for the existing Agricultural Industry and existing Building Line Encroachments.

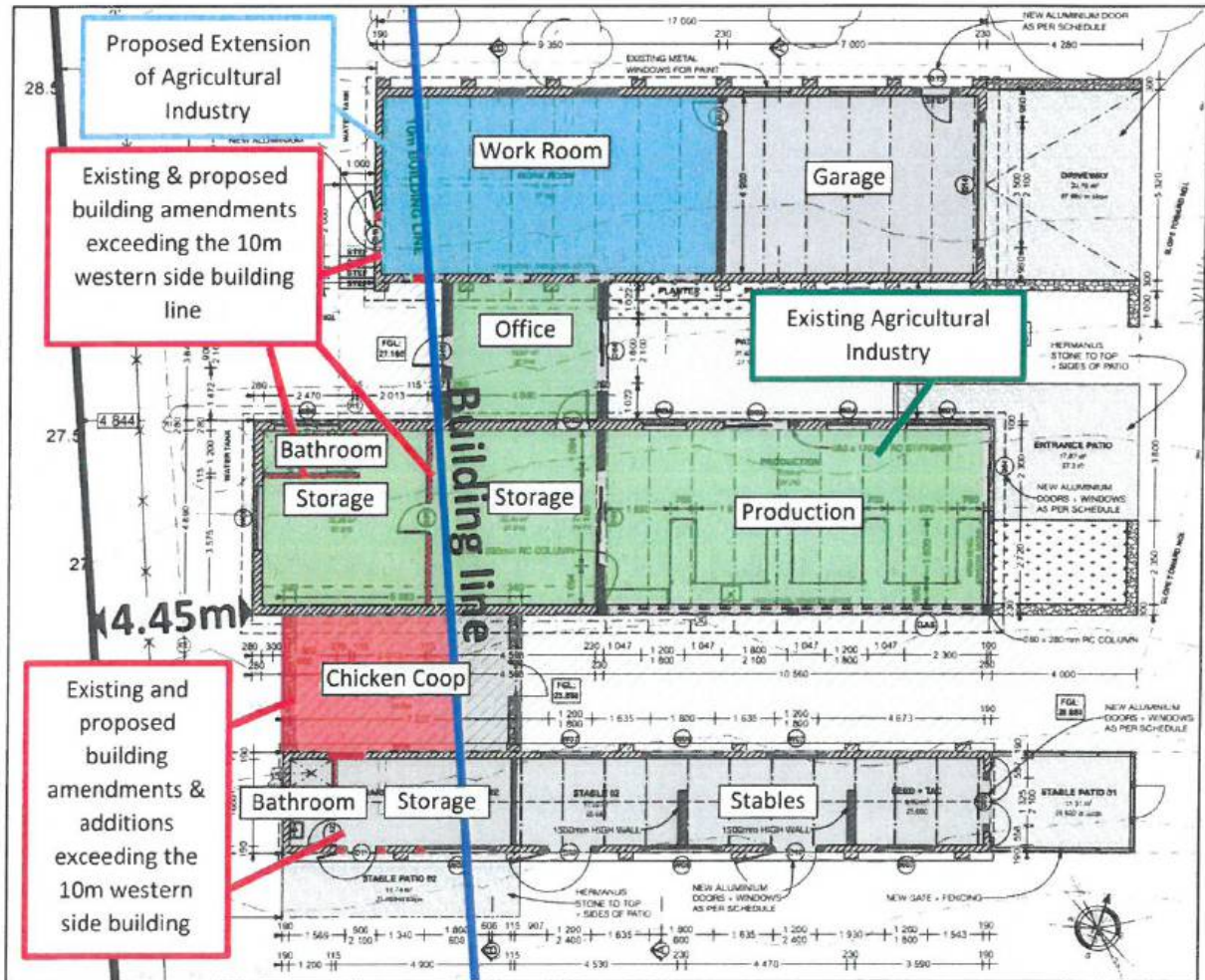
3.1.3. BUILDING PLAN EXTRACT OVERLAYS

3.1.3.1. SITE PLANS

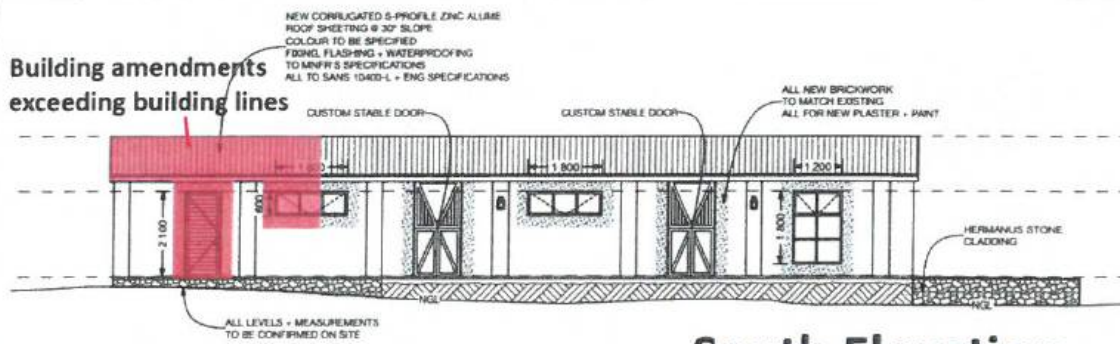




3.1.3.2. BUILDINGS EXCEEDING WESTERN SIDE BUILDING LINE AND AGRICULTURAL INDUSTRY

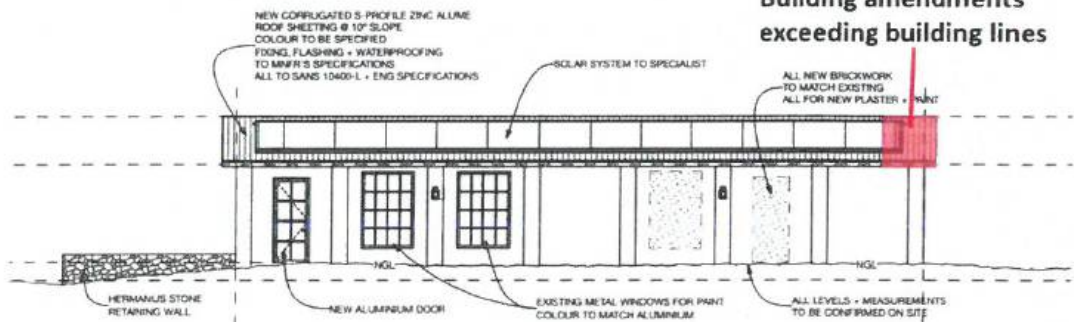


Building amendments exceeding building lines

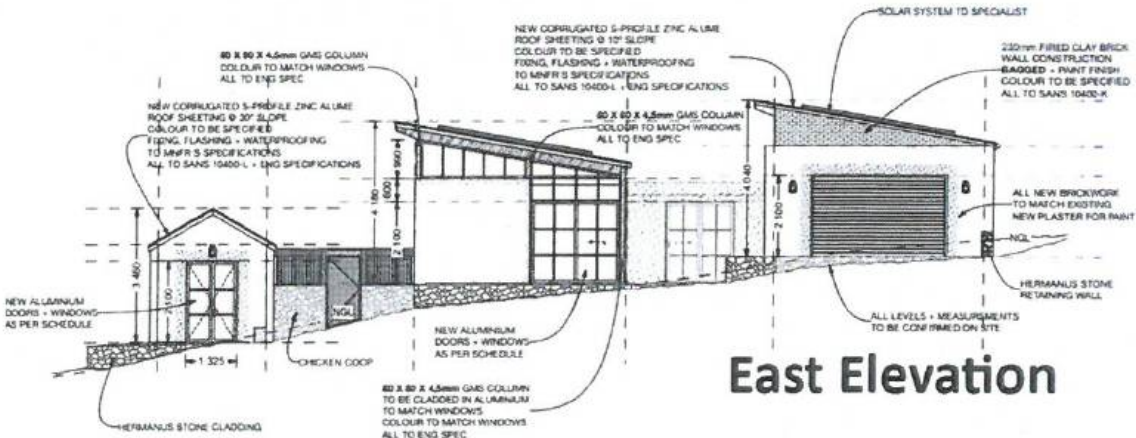


South Elevation

Building amendments exceeding building lines

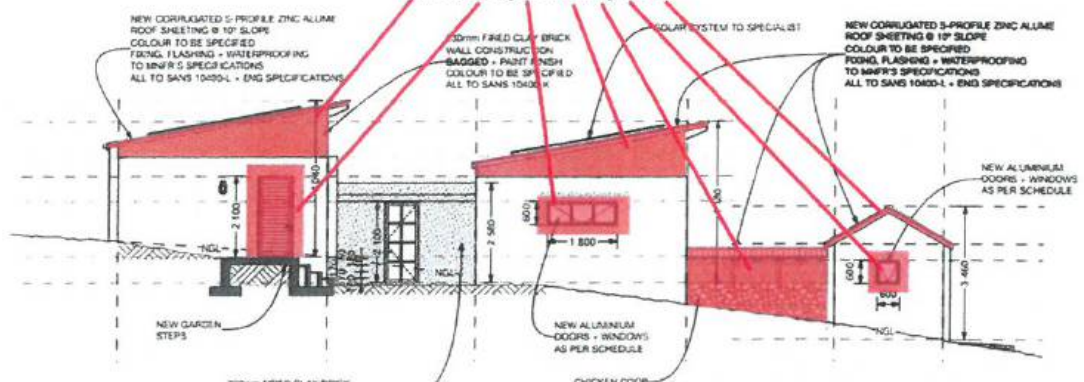


North Elevation



East Elevation

Building amendments exceeding building lines



West Elevation

3.1.3.3. INSTITUTION / CHILDREN'S HOME

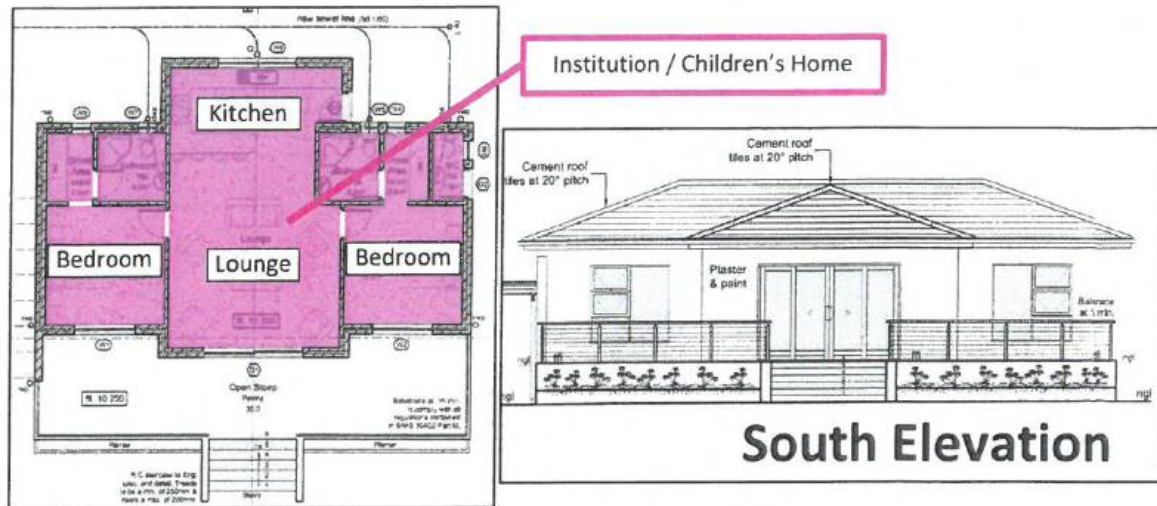
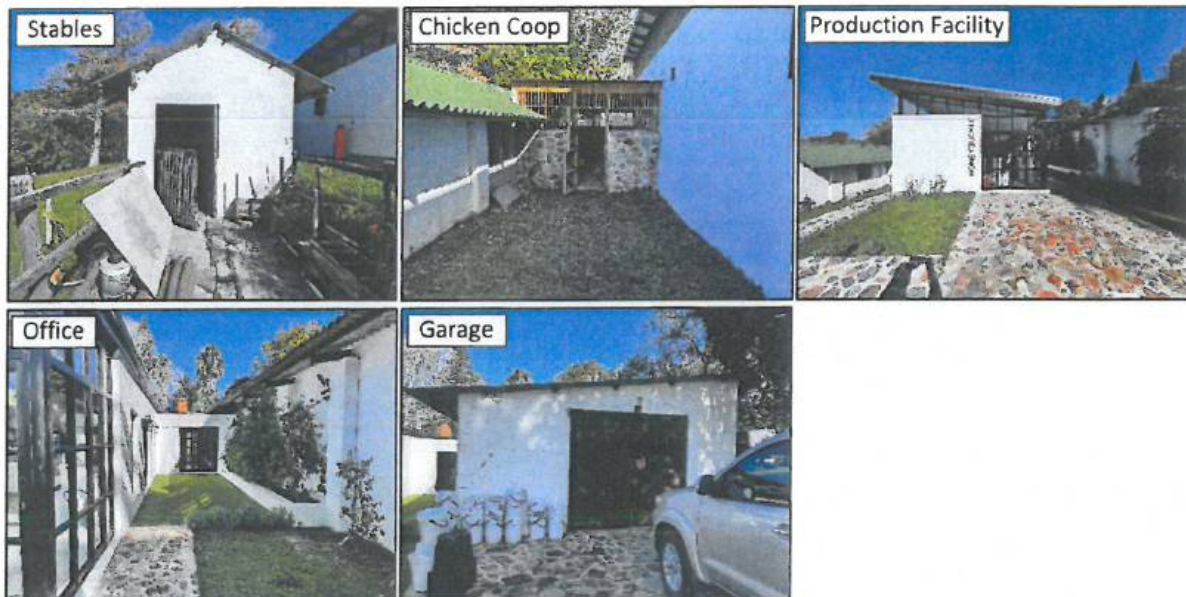


Figure 6: Building Plan extract overlays

Refer to Annexure H for the proposed building plans.

3.1.4. PHOTOS

3.1.4.1. BARNS & STABLES EAST ELEVATION



3.1.4.2. BARNS & STABLES SOUTH ELEVATION



3.1.4.3. BARNs & STABLES NORTH ELEVATION



3.1.4.4. BARNs & STABLES WEST ELEVATION



3.1.4.5. AGRICULTURAL INDUSTRY





3.1.4.6. CHILDREN'S HOME



Figure 7: Photographs of the property

3.1.5. CONSENT USES

3.1.5.1. AGRICULTURAL INDUSTRY

Consent Use in terms of Chapter IV, Section (16)(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the existing and proposed extension of the Agricultural Industry.

The existing agricultural industry consists of the bottling of raw edible honey and the processing, production and packaging of honey-based cosmetics and beauty products. The existing approved second barn was converted into a production area with an extent of 51.84m², a first storage area with an extent of 22.48m² and a second storage area with an extent of 22.48m². The first storage area provides storage space for products to be supplied to retail outlets while the second storage area accommodates the containers of honey and packaging material used for products. In addition an office with an extent of 15.57m² was erected between the two barns, where administrative duties concerning the agricultural industry are performed.

The agricultural industry may be extended in future for which purpose a portion of the first barn may be converted into a workroom with an extent of 46.38m².

The processing and production process consists of following different recipes for mixing together the main ingredients of bees wax, propolis and honey to produce the wide range of cosmetics and beauty products on offer.

Three machines are used in the processing and production process namely a mixer, a tube sealer and a bottling machine. Final products are packaged in tubes as well as in glass and plastic containers.

The agricultural industry operates on a small/home industry scale as is evident from the total 112,37m² extent used for production, storage, bathroom and office space. The number of products produced per month are 1000 to 1500 which means on average 50 to 75 products are produced within the 51,64m² production area on a daily basis. Operating hours are from Monday to Friday 8:00 till 15:00.

The only transport involved in the agricultural industry is the small truck which delivers the honey from the honey factory in Stanford and the Fastway courier van which once a day fetches the products to be delivered to the specific retail outlets, of which there are 20 (3 belonging to the owner) located across the Overberg. In Hermanus the honey shop located in Mitchell Street is one of the shops belonging to the owner which sells these products. Two parking bays/loading zones are provided on the application area for the vehicles servicing the agricultural industry.

The municipal engineering services capacity currently available on the application area is sufficient for the existing agricultural industry and no services upgrades were required in this regard. The current engineering services capacity is considered sufficient for the proposed extension as well.

The new municipal road proposed to run along the northern boundary of the application area is not foreseen to impact on the application proposal. The municipal engineering department has been notified regarding the application proposal and comments by this department will be provided when the application is circulated during public participation.

The Provincial Department of Transport and Public Works has been notified of the application proposal as well and comments with regards to the impact of the proposed upgrade of the R43 on the proposal, is still awaited. Any municipal and provincial conditions stated with regards to the application proposal, will be adhered to.

All relevant health and other related regulations will be adhered to.

3.1.5.2. INSTITUTION

Consent Use in terms of Chapter IV, Section (16)(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for Institution.

The proposed institution consists of a home for the indigent (poor and needy) in the form of a small-scale children's home to be operated by an NGO and for which the approved second dwelling will be utilised. The proposed institution will therefore serve and protect certain of the most vulnerable members of the Greater Hermanus Society.

The second dwelling consists of two bedrooms, two bathrooms, a kitchen and a lounge and will be fenced off for safety reasons, providing sufficient space for outdoor activities for children. All proper precautions and measures will be taken to ensure the safety and well-being of these children.

The children's home will accommodate a maximum of 4 babies at a time and will provide them with a safe haven up to the age of 5 years. This proposed facility will offer a temporary safe haven to abandoned babies, with the aim of finding suitable adoptive parents who will provide a safe, caring and nurturing environment in which to raise these children.

If any of the children have not yet been adopted by the age of five, they will be transferred to a suitable alternative foster care facility.

Three house mothers will provide the required care for these children with two of them present during the day and one house mother present during the night.

The house mothers will provide their own daily transport to the children's home, for which purpose two parking bays are provided in front of the second dwelling.

The municipal engineering services capacity currently available on the application area is considered sufficient for the proposed Children's Home.

The new municipal road proposed to run along the northern boundary of the application area is not foreseen to impact on the application proposal. The municipal engineering department has been notified regarding the application proposal and comments by this department will be provided when the application is circulated during public participation.

The Provincial Department of Transport and Public Works has been notified of the application proposal as well as comments with regards to the impact of the proposed upgrade of the R43 on the proposal, is still awaited. Any municipal and provincial conditions stated with regards to the application proposal, will be adhered to.

All relevant regulations with regards to "Children's Homes" will be adhered to.

3.1.6. BUILDING LINE DEPARTURES

Departure to relax the western side building line from 10m to 4.4m to allow for the existing buildings in terms of Chapter IV, Section (16)(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

The 10m western side building line is exceeded by the existing and proposed agricultural industry, by a portion of the existing chicken coop and by the proposed stable bathroom and portion of proposed garden store area up to a distance of 4.4m from the western erf boundary.

3.1.7. DETERMINATION OF AN ADMINISTRATIVE PENALTY

Determination/waiving of administrative Penalty in terms of Chapter IV, Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

The following information with regards to the administrative penalty is provided as required according to Chapter X, Section 90(3) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020:

3.1.7.1. THE NATURE, DURATION, GRAVITY AND EXTENT OF THE CONTRAVENTION

The nature, duration, gravity and extent of the contravention has been described in detail in this motivation report and includes the following contraventions;

- Existing 96.8m² agricultural industry consisting of the bottling of raw edible honey and the processing, production and packaging of honey-based cosmetics and beauty products for which the second barn was converted. A 15.57m² office which was constructed between the two barns where administrative duties concerning the agricultural industry are performed. The agricultural industry, including the office, has been in existence for just over one year.
- Existing encroachment of the western 10m side building line up to 4.4m by the chicken coop as well as by minor alterations and a change of land-use to the second barn converted for the Agricultural Industry

3.1.7.2. THE CONDUCT OF THE PERSON (ALLEGEDLY) INVOLVED IN THE CONTRAVENTION

The existing barns and stables on the property were erected by a previous owner. The current owner established the agricultural industry without first acquiring consent from the municipality. The owner was under the impression that the agricultural related industry was permitted as a primary land-use on the property. Furthermore, only internal alterations were made to the existing approved second barn to accommodate the agricultural industry.

Office space was required and therefore the area between the first and second barns was enclosed for this purpose but unfortunately without approval.

It is evident from this application that the owner is co-operative and willing to rectify the existing contraventions and to follow the correct statutory procedure to apply to legally accommodate the existing buildings and land-use, not yet approved.

3.1.7.3. REPORT BY A QUANTITY SURVEYOR IN MATTERS OF UNAUTHORISED BUILDING/CONSTRUCTION

Due to the nature, scale, and immaterial impact of the contraventions as well as the application to waive/minimize the administrative penalty, a report by a quantity surveyor is considered non-applicable.

3.1.7.4. WHETHER THE UNLAWFUL CONDUCT WAS STOPPED

The Agricultural Industry is currently still operating.

The Agricultural Industry is considered to produce high quality, environmentally friendly and healthy products consisting of raw edible honey and honey based cosmetics and beauty products without the production process resulting in a material impact on the surroundings. Not only does this provide a service which benefits the surrounding communities, but furthermore allows the owner to apply her entrepreneurial skills to generate an income from the small holding, while also creating employment opportunities to improve the lives of others. The application proposal is thus consistent with one of the municipal key planning areas, which is local economic development with the main economic drivers in the municipality including agriculture and manufacturing (industry).

Therefore, the most policy consistent, reasonable and cost-efficient approach considered to deal with the unlawful conduct is by legalising the contraventions.

3.1.7.5. WHETHER THE PERSON ALLEGEDLY INVOLVED IN THE CONTRAVENTION HAS PREVIOUSLY CONTRAVENED THIS BY-LAW OR A PREVIOUS PLANNING LAW

The current owner is not aware of any previous contraventions of this By-Law or a previous planning law.

3.2. DESIRABILITY

3.2.1 AGRICULTURAL INDUSTRY

The agricultural industry is considered **desirable** for the following reasons:

- Generates a direct employment opportunity, by providing employment to one person other than the owner. Indirect employment opportunities are generated at the honey factory in Stanford which extracts and supplies raw honey to the agricultural industry and at the 20 retail outlets across the Overberg which sells the edible raw honey and honey based products manufactured at the agricultural industry.
- Naturally high quality, healthy and environmentally friendly products are manufactured.
- No noise, hindrance or any kind of pollution is created thus the industry is considered green, clean and eco-friendly, not impacting on the environment or on the surrounding properties.
- Considered compatible with the land-use of the adjacent properties
- Very little traffic is generated by the agricultural industry
- No wastage of bee products occurs as all ingredients are used in manufacturing the products.
- No complaints from neighbours on the eastern and western side which implies land-use compatibility with adjacent properties
- Provides an income on a small holding not large enough for commercially viable agriculture
- Consistent with municipal policies which supports economic development and job creation
- Manufacturing is considered a main economic driver in the municipality
- Contributes to alleviating poverty, stimulating economic development and creating entrepreneurial communities
- The proposal contributes to managed pollination by bees which is essential to our livelihood as a third of the world's food production depends on bees. Honey bees have been voted the most important living being on the planet.

3.2.2 INSTITUTION

The institution which consists of a home for the indigent is considered **desirable** for the following reasons:

- Consistent with municipal policy, which clearly states that one of the municipal key planning areas is social development.
- The proposal which delivers a service to one of the most vulnerable groups, is supported by municipal policy which states that the municipality will assist where possible
- Foreseen to result in the upliftment and improvement of the circumstances and well-being of abandoned babies, especially in relation to poverty
- Proposed location provides a healthy farm environment with sufficient space for children to play and learn
- Growing need in the Greater Hermanus area for Children's Homes which offer proper quality foster care as a result of the economic impact on families caused by the Covid pandemic and the economic recession
- Generation of employment opportunities for three house mothers
- Traffic generation is minimal with only two vehicles at a time accessing the premises

3.2.3 BUILDING LINE DEPARTURE

The building line departure to relax the western 10m building line is considered **desirable** for the following reasons:

- Land-uses exceeding the building line do not result in any material impact such as noise, air pollution or odours on the adjacent property to the west
- No additional impact will occur as barns and stables have been in existence on the property for many years
- The boundary wall between the application area and the neighbouring property to the west is lined with tall trees creating a buffer which prevents any visual impact or privacy intrusion on the western neighbouring property
- As structures are limited to the ground floor, there is no impact on privacy or views
- The 4.4m distance between the closest building and the western erf boundary, allows for emergency access to these buildings, if required
- Consistent with the character of the area, as the surrounding agricultural properties all have buildings closer to 10m from the boundary

3.3. PLANNING PRINCIPLES

In terms of Chapter VI of the Spatial Planning and Land Use Management Act, 2013 the following Planning Principles have been applied to the application site:

3.3.1. SPATIAL JUSTICE

Spatial Justice which refers to the need for redressing the past apartheid spatial development imbalances and aims for equity in the provision of access opportunities, facilities, services and land.

POSSIBLE RESULTS OF THE DEVELOPMENT

The existing agricultural industry creates direct and indirect employment opportunities which improves the lives of others, including the previously disadvantaged members of society. The proposed institution will contribute to protecting and empowering the most vulnerable members of society, hereby improving the lives of abandoned babies from poor and needy families.

The application proposal is **consistent** with spatial justice.

3.3.2. SPATIAL SUSTAINABILITY

Spatial Sustainability which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.

POSSIBLE RESULTS OF THE DEVELOPMENT

Although the proposal is located on agricultural land, the application proposal both for the agricultural industry and for the institution utilizes existing buildings that originated before the current owners settled on the application area. This implies that no additional agricultural land has been occupied for the proposal.

Furthermore, due to the relatively small extent of the farm, it is not considered large enough for commercially viable agriculture.

The proposed Agricultural Industry is considered sustainable due to the environmentally friendly, healthy and high quality products which are in demand as is evident from the number of retail outlets currently offering these products. Online reviews regarding these products are very favourable.

The proposed Children's Home is considered sustainable due to the ever increasing need for this type of institution. The recent Covid pandemic and the economic recession has sadly resulted in a loss of income for many families.

The application proposal is **consistent** with spatial sustainability.

3.3.3. EFFICIENCY

Efficiency which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.

POSSIBLE RESULTS OF THE DEVELOPMENT

The location of the application area where production occurs is considered central both to the factory in Stanford supplying the raw honey as well as to the retail outlets offering the products to customers. The property is optimized in an efficient manner by using existing buildings to create an income, generate employment opportunities and improve the lives of others without any material impact on the surrounding area foreseen in terms of traffic generation, noise, hindrance, privacy intrusion or pollution. The utilization of existing structures in a more effective way is considered most efficient.

The application proposal is **consistent** with the efficiency principle.

3.3.4. SPATIAL RESILIENCE

Spatial Resilience which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.

Possible results of the development

The proposal is not foreseen to create any economic or environmental shocks as both the existing agricultural industry and the proposed institution create an income for the owner, generate direct and indirect employment opportunities and improve the lives of others which include the previously disadvantaged and vulnerable members of society.

The application proposal is consistent with the principle of spatial resilience.

3.3.5. GOOD ADMINISTRATION

Good Administration which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued.

POSSIBLE RESULTS OF THE DEVELOPMENT

Consultative practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the Government and the general public to participate in the eventual decision-making process.

The application proposal is consistent with the principle of good administration.

3.3.6. PLANNING PRINCIPLES CONCLUSION

The application proposal is therefore fully **consistent** with the planning principles of spatial justice, spatial sustainability, efficiency, spatial resilience and good administration.

4. CONCLUSION

The application is considered **desirable** within its local context and well-integrated within the existing community land-use activities. Furthermore, the application proposal is considered to represent the optimal use of the application area for manufacturing high quality agricultural related products and for establishing a satisfactory temporary residential environment for the most vulnerable members of society. The proposal contributes to creating employment, alleviating poverty, generating an income for the owner, and improving the lives of the less fortunate. No material impact on the surrounding environment is foreseen due to the approval of the application proposal.

It is therefore recommended that the application be approved as follows:

- Consent use for Agricultural Industry on the Remainder of Portion 366 of Farm 581 Onrust River in terms of Chapter IV, Section (16)(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Consent Use for Proposed Extension of the Agricultural Industry on the Remainder of Portion 366 of Farm 581 Onrust River in terms of Chapter IV, Section (16)(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Consent use for Institution on the Remainder of Portion 366 of Farm 581 Onrust River in terms of Chapter IV, Section (16)(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Departure to relax the western side building line from 10m to 4.4m to allow for existing buildings in terms of Chapter IV, Section (16)(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Waiving of the administrative penalty in terms of Chapter IV, Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020.



MB Plan Town Planning

Email: mb.plan@yahoo.com

Contact number: 071 347 4844

Date: 13 January 2023

Reference: RE 366/581 Onrust River

Remainder of Portion 366 of Farm 581 Onrust River: Consent uses, building line departure & determination of an administrative penalty: Additional Document and Information

Kindly find attached hereto the following additional information as requested in your letter with reference RCAL 366/581, dated the 19th of December 2022.

- Information with regards to number of staff, traffic generation and parking requirements for the Agricultural Industry and Children's Home.
- More detail regarding the anticipated utilisation of extra water, electricity, sewerage and creation of waste material due to the Agricultural Industry, and what capacity exists or will be created.

We trust that the above-mentioned additional information herewith provided as well as the additional documents previously provided are in order.

Kindly advise whether any further additional information or documents are still required.

Kind Regards,

A handwritten signature in black ink, appearing to read "Melissa Buys".

Melissa Buys

13 JAN 2023

1. Provide an indication of how many staff will be required for the Agricultural Industry, how many traffic will they generate and the parking requirements.

Only one employee other than the owner is involved in the agricultural industry and operating hours are from Monday to Friday 8:00 till 15:00.

As summarized in Table 1 below, the only traffic generated by the agricultural industry are two vehicles. One vehicle belongs to the employee who works in the agricultural industry and who also picks up the honey from the honey factory in Stanford once a week. The other vehicle belongs to the Fastway courier van which once a day fetches the products to be delivered to the specific retail outlets.

One loading zone and one parking bay are provided on the application area for the vehicles related to the agricultural industry, numbered bay 5 and 6 respectively on the site plan on the next page.

Table 1: Summary of Traffic Generated and Parking required & Provided for Children's Home

Consent Use	Traffic Generated			Parking Required	Parking Provided
	Type & Number of Vehicles	Frequency of Traffic	Time of Traffic		
Agricultural Industry (A.I.)	1 Courier vehicle fetching the honey products from the A.I.	Once a day	Monday – Friday During Operating Hours	1 Loading Zone Bay	Parking Bay Nr 5
	1 Employee's vehicle	Every Day	Monday to Friday 8:00 – 15:00	1 Parking Bay	Parking Bay Nr 6

As summarized in Table 2 below, the only traffic generated by the children's home are two vehicles. Three house mothers will provide the required care for these children with two of them present during the day and one house mother present during the night. For this purpose two parking bays are provided in front of the second dwelling, numbered 7 and 8 on the site plan on the next page.

Table 2: Summary of Traffic Generated and Parking required & Provided for Children's Home

Consent Use	Traffic Generated			Parking Required	Parking Provided
	Type & Number of Vehicles	Frequency of Traffic	Time of Traffic		
Children's Home	2 House mother's vehicles	Every Day	Monday to Sunday - 12 hours during day	2 Parking Bays	Parking Bay Nr 7 & 8
	1 House mother's vehicle	Every Night	Monday to Sunday - 12 hours during night	1 Parking Bay	Parking Bay Nr 7

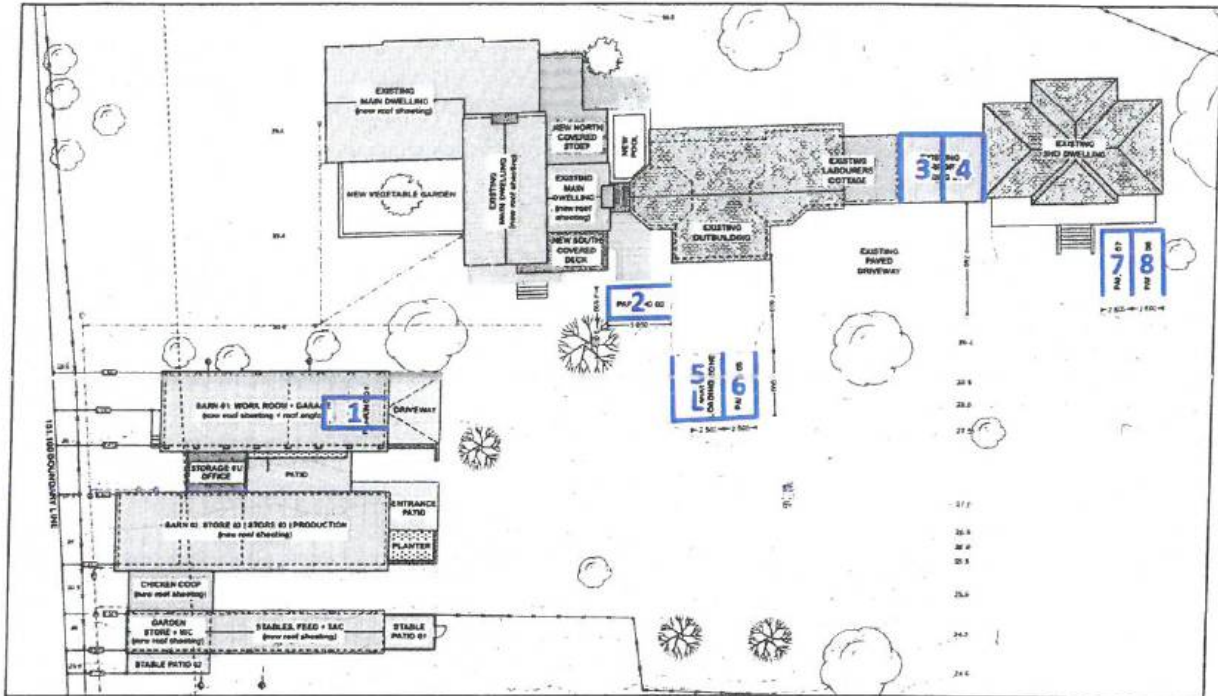
25/25

SITE PLAN: PARKING PROVIDED

Standard bays: Bays no 1-4 & 6-8

Loading bay: No 5

Overflow parking on grass



2. **Provide more detail about the anticipated utilisation of extra water, electricity, sewerage and creation of waste material due to the agricultural industry, and what capacity exists or will be created.**

a. **Electricity**

The agricultural industry exclusively uses solar power. A part of the main dwelling also uses solar power. It is planned to have the entire property run off solar in approximately two years. The application proposal will therefore not have any impact on electricity usage. The electricity usage of the agricultural industry which is exclusively from solar power is estimated to be up to 260kWh per month.

b. **Water**

The existing water usage including the agricultural industry was an average of 154 units per month for the year 2022 with a basic monthly fee of R179 per month and an average additional fee R14 per month based on usage.

The agricultural industry uses very little water. The agricultural industry has a new bathroom which uses some additional water. The bathroom is used by three people of which two live on the property. The agricultural industry requires cleaning, but the agricultural industry was previously a barn which required cleaning as well. The additional water usage of the agricultural industry is therefore negligible. Kindly refer to the municipal statement on the following page.

c. **Sewerage**

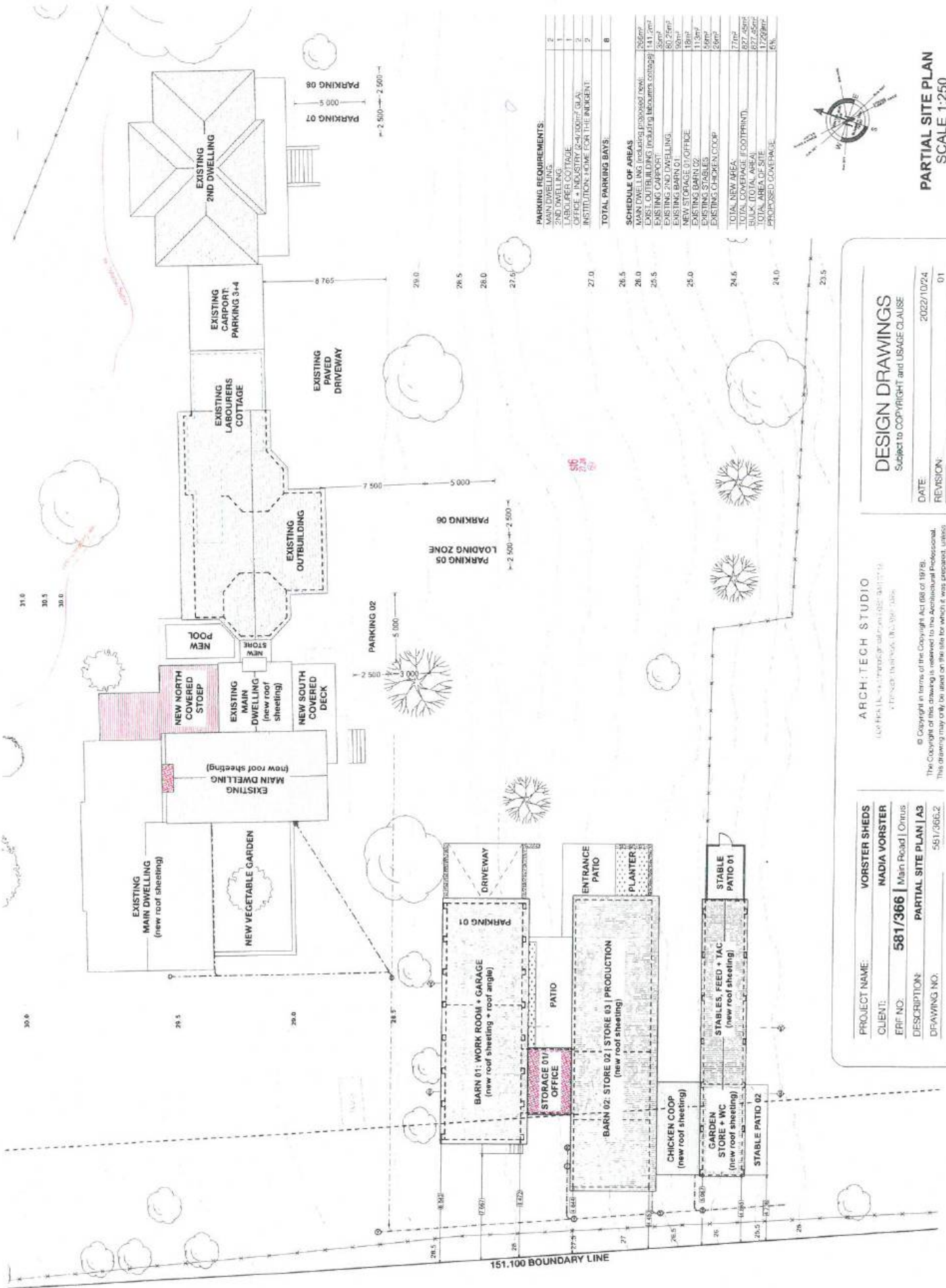
The agricultural industry bathroom gets used by three people. Two of the three people live on the property and therefore the additional impact on sewerage is negligible.

d. **Solid waste**

The agricultural industry generates 4 additional bags of solid waste per month which is collected by the municipality together with the normal refuse removal.

e. **Potential future expansion**

Based on the impact of the existing agricultural industry, potential future expansion of the agricultural industry will have no or negligible impact on services.

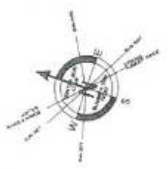


PARKING REQUIREMENTS

MAIN DWELLING	2
2ND DWELLING	2
LABOURER COTTAGE	1
OFFICE + INDUSTRY (24/100m ² GLA)	2
INSTITUTION HOME FOR THE INCIDENT	2
TOTAL PARKING BAYS:	8

SCHEDULE OF AREAS

MAIN DWELLING (including proposed level)	268m ²
EAST OUTBUILDING (including labourers cottage)	141.0m ²
EXISTING CARPORT	38m ²
EXISTING BARN 01	80.7m ²
NEW STORAGE 01/OFFICE	18m ²
EXISTING STABLES	11.3m ²
EXISTING CHICKEN COOP	9m ²
EXISTING CHICKEN COOP	28m ²
TOTAL NEW AREA (FOOTPRINT)	77m²
NEW AREA (TOTAL AREA)	627.8m ²
TOTAL AREA OF SITE	1278m²
PROPOSED COVERAGE	6%



DESIGN DRAWINGS
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DATE: 2022/10/24
REVISION: 01

ARCH: TECH STUDIO
100 HEKILUKA STREET, GRAPESMOUNT, 2145

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PROJECT NAME: **VORSTER SHEDS**
CLIENT: **NADIA VORSTER**
ERF NO: **581/366** Main Road | Onrus
DESCRIPTION: **PARTIAL SITE PLAN | A3**
DRAWING NO: 551/366.2

ARCHITECT STUDIO

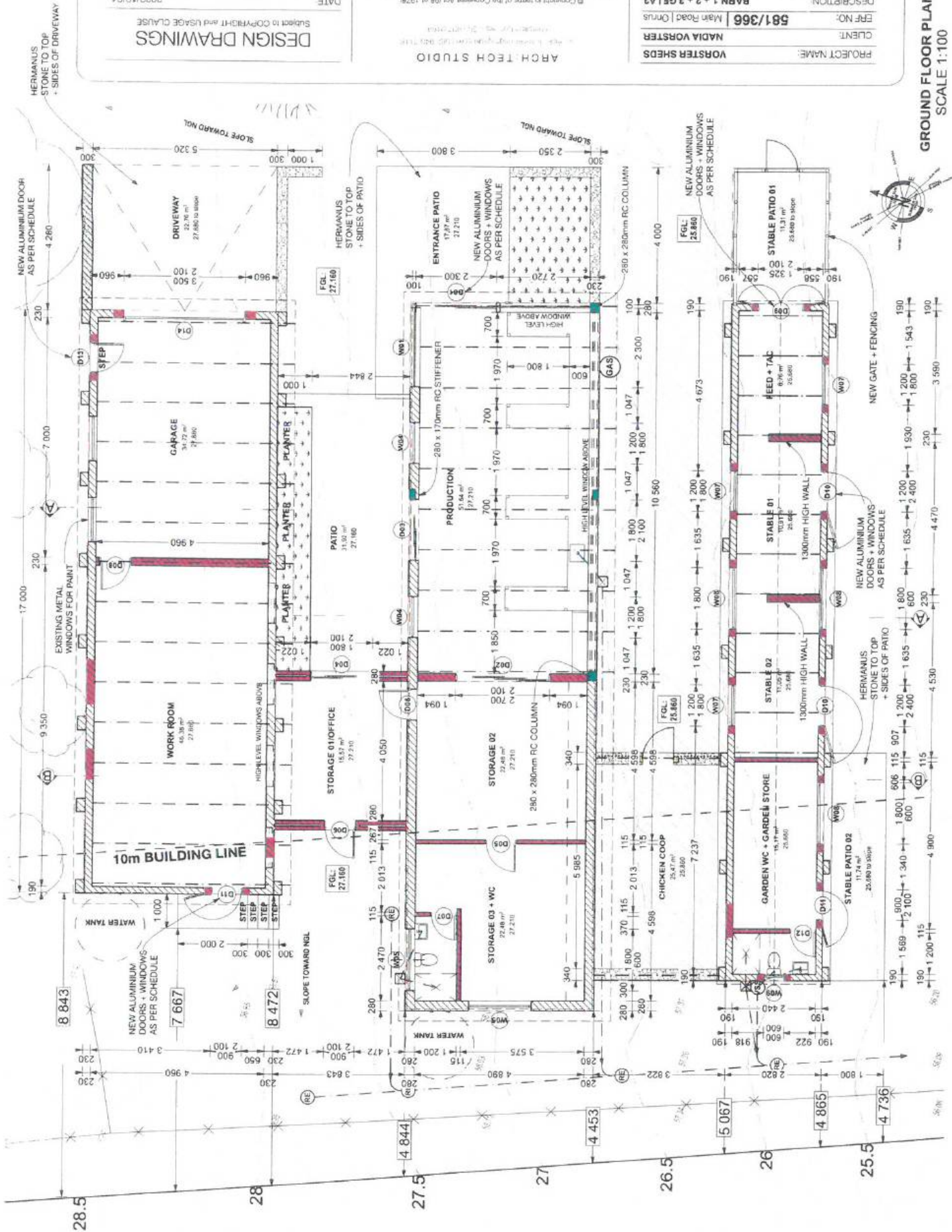
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PROJECT NAME: **VORSTER SHEDS**
CLIENT: **NADIA VORSTER**
EFP NO: **581/366** Main Road | Onus
DESCRIPTION: **BARN 1 + 2 + 3 GF | A3**
DRAWING NO: **581/366.3**

DATE: **2022/10/24**
REVISION: **01**

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GROUND FLOOR PLAN
SCALE 1:100



10m BUILDING LINE

8 843

7 667

8 472

4 844

4 453

5 067

4 865

4 736

28.5

28

27.5

27

26.5

26

25.5

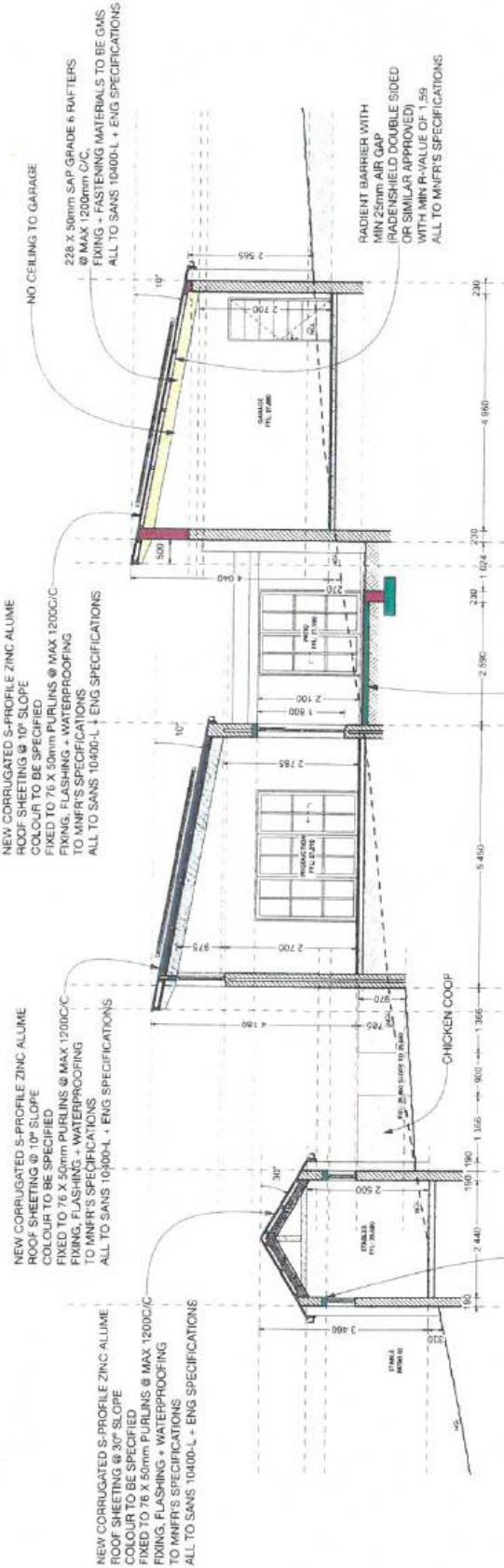


PROJECT NAME VORSTER SHEDS	CLIENT NADIA VORSTER	DESCRIPTION BARN SECTIONS A3	DRAWING NO. 581/366.1
REF. NO. 581/366	DATE 2022/10/24	REVISION: 01	

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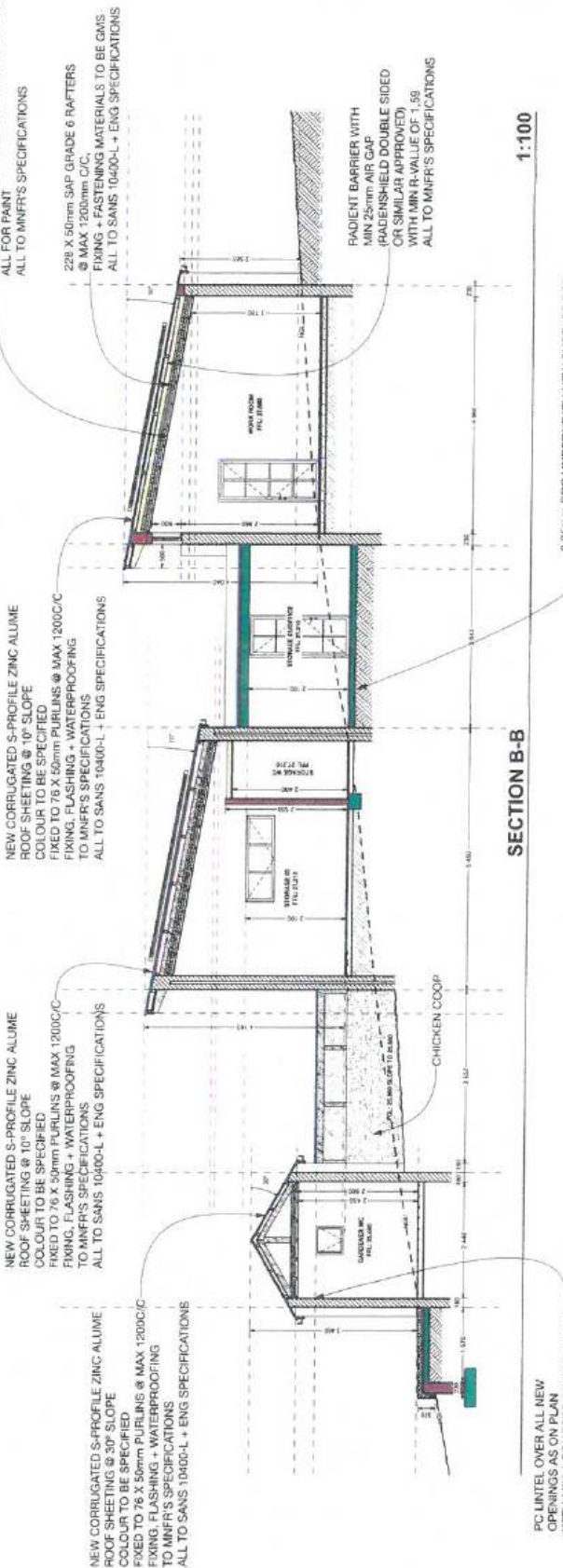
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1:100

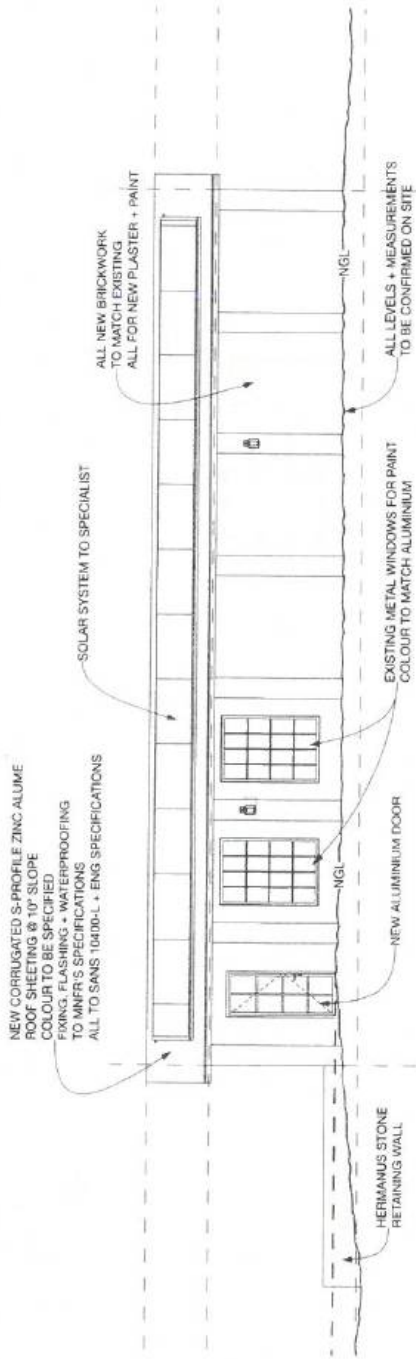
SECTION A-A



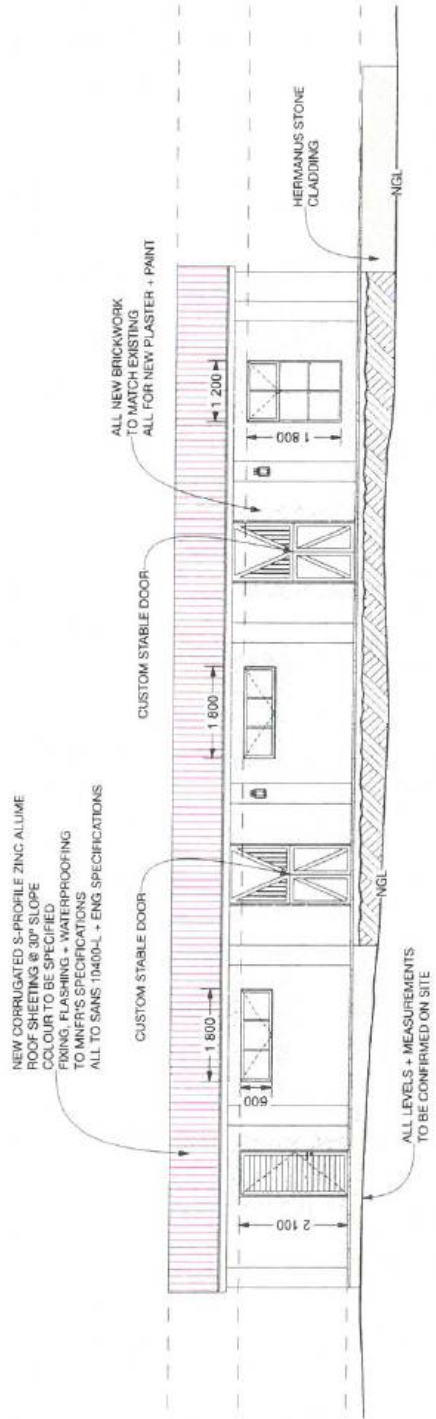
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SECTION B-B

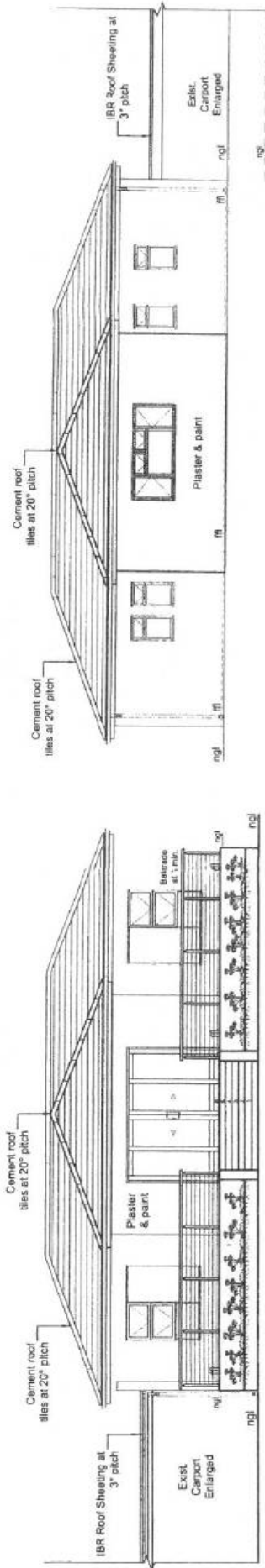
ARCH:TECH STUDIO 26 Fick Avenue, Geyserwiel (102 8271 10) 011 462 0389 (T) 011 462 0390 (F)		© Copyright in terms of the Copyright Act 98 of 1978. The Copyright of this drawing is reserved to the Architectural Professional. This drawing may only be used on the site for which it was compiled, unless otherwise authorized by the Architectural Professional.	
DATE: 2022/10/24 REVISION: 01 Subject to COPYRIGHT and USAGE CLAUSE		PROJECT NAME: VORSTER SHEDS CLIENT: NADIA VORSTER ERF NO: 581/366 Main Road Omnis DESCRIPTION: BARN ELEVATIONS 02 A3 DRAWING NO: 581/366.5	



GARAGE NORTH ELEVATION | SCALE 1:100



STABLE SOUTH ELEVATION | SCALE 1:100



South East Elevation

1:100

North West Elevation

1:100



South West Elevation

1:100

North East Elevation

1:100

PROJECT NAME: **VORSTER SHEDS**
 CLIENT: **NADIA VORSTER**
 ERF NO: **581/366** | Main Road | Omrus
 DESCRIPTION: **2ND DWELLING ELEVATIONS | A3**
 DRAWING NO: 581/366.9

ARCH : TECH STUDIO
 107 Fox Hills Avenue, Protea (1601) 0110
 011 561 1395

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**EXISTING APPROVED
 2ND DWELLING**
 SCALE 1:100
 as per Gerhard Engelbrecht



TP-N. /heer
(H. Olivia)



16 March 2023

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

FILE NO.	PTN 366/581
	Chunelid ✓
SCAN NO.	
	PTN 366
COLLABORATOR NO.	
	1829811

Attention: Mr Henk Olivier

REMAINDER OF PORTION 366 OF THE FARM ONRUST RIVER NO. 581, DIVISION CALEDON: APPLICATION FOR CONSENT USE, DEPARTURE AND DETERMINATION OF ADMINISTRATIVE PENALTY: MBPLAN ON BEHALF OF OVERBERG HONEY TRUST

Your invitation to comment on the submitted application has reference.

It is noted that application is made for an agricultural industry and a home for the indigent.

We are objecting to the proposal and our reasons are the following:

1. In terms of the Overstrand Growth Management Strategy, 2010 the subject property is located within Planning Unit 9, which is located south of the Old Main Road and the R43 Provincial Road intersection. Block development is proposed for the establishment of free-standing simplex type housing units.
2. Although the subject property is zoned Agriculture, the proposed uses are in stark contrast to the residential character of the area.
3. The proposal to establish a small care centre for indigent children up to the age of 5, four children at a time, is regarded as not being desirable. We are concerned that the welfare of the children may not be the primary focus and where children are concerned, it should be done in a focused and structured facility and not as an ancillary use to a farming establishment.
4. The motivation also does not address any deviation from the Overstrand Municipal Spatial Development Framework, 2020 or from the Overstrand Growth Management Strategy, 2010, which is an informant to the Spatial Development Framework.

Thank you for your attention to this objection.

Yours faithfully

B I STEYN
CHAIRMAN
NEGESTER-NOORD HOA

Trustees: Mr Ben Steyn (Chairman), Mr Mark Joseph (Vice-Chairman), Mr Richard Kotzé

17 MAR 2023

TP-A Theart
(H Olivier)

MB Plan Town Planning

Email: mb.plan@yahoo.com

Contact number: 071 347 4844

Date: 18 April 2023

Reference: RE 366/581 Onrust River

Attention: Mr Henk Olivier, Town Planning Department, Overstrand Municipality

Remainder of Portion 366 of Farm 581 Onrust River: Consent uses, building line departure & determination of an administrative penalty: Response to objections

Comments & objections, dated 16 March 2023, were received from the **Negester North Home Owners Association** in response to the following application:

- Consent use for Agricultural Industry on the Remainder of Portion 366 of Farm 581 Onrust River in terms of Chapter IV, Section (16)(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Consent use for Institution on the Remainder of Portion 366 of Farm 581 Onrust River in terms of Chapter IV, Section (16)(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Departure to relax the western side building line from 10m to 4.4m to allow for existing buildings in terms of Chapter IV, Section (16)(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Waiving of the administrative penalty in terms of Chapter IV, Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020.

The purpose of the application is to allow for a small-scale agricultural industry, a small home for indigent children as well as farm related structures exceeding the building line.

Negester North Home Owners Association comments & objections

We are objecting to the proposal and our reasons are the following:

1. "In terms of the Overstrand Growth Management Strategy, 2010 the subject property is located within Planning Unit 9, which is located south of the Old Main Road and the R43 Provincial Road intersection. Block development is proposed for the establishment of free-standing simplex type housing units.
2. Although the subject property is zoned Agriculture, the proposed uses are in stark contrast to the residential character of the area.
3. The proposal to establish a small care centre for indigent children up to the age of 5, four children at a time, is regarded as not being desirable. We are concerned that the welfare of the children may not be the primary focus and where children are concerned, it should be done in a focused and structured facility and not as an ancillary use to a farming establishment.
4. The motivation also does not address any deviation from the Overstrand Municipal Spatial Development Framework, 2020 or from the Overstrand Growth Management Strategy, 2010, which is an informant to the Spatial Development Framework."

FILE NO. Pth 366/581
Onrus River ✓
SCAN NO.
PTN 366
COLLABORATOR NO.
1847394

18 APR 2023

Response to comments/objections

Comment/objection 1

"In terms of the Overstrand Growth Management Strategy, 2010 the subject property is located within Planning Unit 9, which is located south of the Old Main Road and the R43 Provincial Road intersection. Block development is proposed for the establishment of free-standing simplex type housing units."

Response

The Overstrand Growth Management Strategy, 2010 (GMS) is a document to guide decision making regarding densification as well as community and related facilities and civil services. The planning unit descriptions relate high level blanket categories for residential densification, primary community facilities and civil services and does not relate to business or institutional development, detailed land use descriptions or consent uses at all. No densification, new development, (i.e. subdivisions or new zonings) or new buildings are proposed by the application.

Limited business and community land uses are allowed in residential and peri-residential areas.

The purpose of the planning unit descriptions of the GMS is misunderstood and misrepresented, comment is made out of context and does not relate to the scale or nature of the application.

The application is to allow for the effective use of the existing buildings within rights allowed under the existing zoning of the property. The proposed uses of Agricultural Industry and Institution are consent uses allowed under the existing zoning on the property, namely Agriculture. The proposal will only be applicable to the existing agricultural property.

In future the application area can still be developed in accordance with the GMS and other Municipal future planning documents and guidelines.

The GMS does not go to the level of detail of or prescribe consent uses. The scale, scope and purpose of the GMS is misunderstood and viewed out of context.

Comment/objection 2

"Although the subject property is zoned Agriculture, the proposed uses are in stark contrast to the residential character of the area."

Response

The above comment is flawed in several aspects.

First of all, in terms of character of the area, the surrounding properties are smallholdings, which has residential elements, but is not purely residential and has non-residential uses as well.

Secondly, a small-scale home for the indigent is mostly residential in nature, which is compatible with the character of the area.

Thirdly, even residential properties have rights to have a home occupation, a form of low impact business in residential areas. Thus, small scale, low impact business uses are allowed in residential areas. The scale of the proposal is low impact, not open to the public and proportionate to the scale of the property size and compatible with the existing character and zoning of the area.

No new structures are proposed, the scale of the proposal is limited and the proposed uses are not open for the public and therefore the proposal will not have an impact on the character of the area.

The proposal is therefore compatible with the character of the area.

Comment/objection 3

"The proposal to establish a small care centre for indigent children up to the age of 5, four children at a time, is regarded as not being desirable. We are concerned that the welfare of the children may not be the primary focus and where children are concerned, it should be done in a focused and structured facility and not as an ancillary use to a farming establishment."

Response

The statement that the proposed small care centre is not desirable, and implying that the quality of care will be lacking is unfounded, factually incorrect, and totally inappropriate.

There are strict and structured requirements that must be met in order to operate a home for the indigent. The staff employed will be suitable and sufficiently qualified. There will be oversight from professional bodies.

Several studies have shown that smaller groups are better for early child development. A small-scale care centre gives the opportunity to give each child more attention and provide each child with more personalised care. Younger children also tend to get overwhelmed more easily in larger groups, which is counterproductive to their development.

The NPO's main objective with the children's home is to function as far as possible, like a regular family. The surrounding family and farm environment with a variety of animals and plenty of open space provides the children with a homey, healthy and natural environment where they can be integrated into a life as experienced by a regular family. This is in stark contrast to the more clinical and detached environment often experienced within a formal institutional facility.

This statement is unfounded, tries to undermine the credibility of the owners, the NPO and the proposal, is inappropriate and should be disregarded.

Comment/objection 4

"The motivation also does not address any deviation from the Overstrand Municipal Spatial Development Framework, 2020 or from the Overstrand Growth Management Strategy, 2010, which is an informant to the Spatial Development Framework."

Response

As mentioned in the response to comment 1, no new development (i.e. subdivisions or new zonings) or even new structures are proposed. The proposal is to use the existing structures on the property optimally. The SDF and GMS allows for limited business and community land-uses within residential and peri-residential areas. The proposed uses are consent uses under the existing zoning. The proposals are small scale, low impact and will not impact on the character of the area.

In future the application area can still be developed in accordance with the Spatial Development Framework, 2020 (SDF) and Growth Management Strategy, 2010 and other Municipal future planning documents and guidelines. The application proposal should be viewed as a low-impact interim proposal and the long-term vision of the Spatial Development Framework and Growth Management Strategy can remain as is.

The proposal is not in conflict with the SDF or GMS and will not detract from the long-term vision of the SDF or GMS either.

Conclusion

The comments and objections contain several inaccuracies, have several misinterpretations, information is presented out of context, statements are made which are unfounded and inappropriate and therefore it is recommended that these comments / objections be rejected and disregarded.

The proposal is compatible with the relevant policy documents as well as with the character of the area, provides income and job creation, is low impact and provides for indigent children for which there is a growing need and therefore your favourable consideration of the application will be highly appreciated.

Kind Regards,



Melissa Buys

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR CONSENT USE, DEPARTURE & DETERMINATION
OF ADMINISTRATIVE PENALTY: REMAINDER PORTION 366 OF THE
FARM ONRUS RIVER NO.581, DIVISION CALEDON (4302/2022)**

Electricity	:	Eskom area
Water	:	In Order
Sewer	:	In Order
Stormwater	:	In Order
Roads and traffic	:	In Order

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that should additional services connections be required, the owner will be responsible for the payment of bulk services levies;
3. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Senior Operational Manager: Hermanus for written approval;
4. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property.
5. that no on-street parking be allowed

p.p. R. Andelen
DENNIS HENDRIKS
 SENIOR MANAGER: ENGINEERING SERVICES

23/02/2023
 DATE



Overstrand Municipality

Date: 2023/03/28

Loretta@overstrand.gov.za

Enquiries:

WayleavesWesternOU@eskom.co.za

WAYLEAVE APPLICATION: Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amended By-Law on Municipal Land Use Planning, 2020 (By-Law) that an application has been received applicable

YOUR REF: Rem Ptn 366/581 RCAL

ESKOM REF: 09049-23

THIS IS NOT AN APPROVAL TO START CONSTRUCTION

I hereby inform you that Eskom has no objection to the proposed work indicated on your drawing in principle. This approval is valid for **12 months** only, after which reapplication must be made if the work has not been completed.

1. **Eskom services are affected by your proposed works and the following must be noted:**

- Eskom has no objection to the proposed work and include a drawing indicating Eskom 11kV/LV underground services in close proximity.
- Please note that underground services indicated are only approximate and the onus is on the applicant to verify its location.
- There may be LV overhead services / connections not indicated on this drawing.
- The successful contractor must apply for the necessary agreement forms and additional cable information not indicated on included drawing, in order to start construction.

Application for Working Permit must be made to:

Customer Network Centre: Caledon

Dirk Swart / Francois Swart

028 214 5710 / 028 214 5713 / 083 502 2590

SwartDi@eskom.co.za

Include Eskom Wayleave as-built drawings and all documentation, when applying for Working Permit.

Should it be necessary to move, relocate or support any existing services for possible future needs, it will be at the developer's cost. Application for relocating services must be made to Customer Services on 08600 37566 or customerservices@eskom.co.za

Distribution Division - Western Region [Land Development]
Western Region
Eskom Road Brackenfell 7560 PO Box 222 Brackenfell 7561 SA
Tel +27 86 003 7566 www.eskom.co.za

Eskom Holdings SOC Limited Reg No 2002/015527/30

FILE NO.	Pin 366/581
	Onusvier
SCAN NO.	
COLLABORATOR NO.	1835668

2. Underground Services

The following conditions to be adhered to at all times:

- a) Works will be carried out as indicated on plans.
- b) No mechanical plant to be used within 3.0m of Eskom underground cables.
- c) All services to be verified on site.
- d) Cross trenches to be dug by hand to locate all underground services before construction work commences.
- e) If Eskom underground services cannot be located or is grossly misplaced from where the wayleave plan indicates, then all work is to be stopped and Lianne Muller from the Land Development Office to be contacted at MullerLE@eskom.co.za , to arrange the capturing of such services.
- f) In cases where proposed services run parallel with existing underground power cables the greatest separation as possible should be maintained with a minimum of 1000mm.
- g) Where proposed services cross underground power cables the separation should be a minimum of **300mm** with protection between services and power cables. (Preferably a concrete slab)
- h) No manholes; catch- pits or any structure to be built on top of existing underground services.
- i) Only walk-behind (2 ton Bomac type) compactors to be used when compacting on top of and 1 metre either side of underground cables.
- j) If underground services cannot be located then the Customer Network Centre (CNC) should be consulted before commencement of any work.
- k) **No work can take place within the servitude of a 66kV Cable or 13kV Cable if indicated.** Should you need to undertake any work within the proximity of our 66kV or 132kV Cables please contact Lianne Muller at MullerLE@eskom.co.za to arrange a site visit.

3. O.H. Line Services:

- a) The following building and tree restriction on **either side of centre line** of overhead power line must be observed:

Voltage	Building restriction either side of centre line
11 / 22kV	9.0 m
66kV	11.0 m
132kV	15.5 m

- b) No construction work may be executed closer than **6 (SIX) metres** from any Eskom structure or structure-supporting mechanism.
- c) No work or no machinery nearer than the following **distances from the conductors**:

Voltage	Not closer than:
11 / 22kV	3.0 m
66kV	3.2 m
132kV	3.8 m

- d) Natural ground level must be maintained within Eskom reserve areas and servitudes.
- e) That a **minimum ground clearance** of the overhead power line must be maintained to the following clearances:

Voltage	Safety clearance above road:
11 / 22kV	6.3 m
66kV	6.9 m
132kV	7.5 m

- f) That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.
- g) That Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
- i. Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
 - ii. To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
 - iii. To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom,
 - iv. To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- h) Eskom must have at least a 10m obstruction free zone around all pylons (not just a 10m radius from the centre).
- i) Eskom shall not be liable for the death or injury of any person, or for loss of or damage to any property, whether as a result of the encroachment or use of the area where Eskom has its services, by the applicant, his/her agent, contractors, employees, successors in title and assignee.
- j) The applicant indemnifies Eskom against loss, claims or damages, including claims pertaining to interference with Eskom services, apparatus or otherwise.
- k) Eskom shall at all times have unobstructed access to and egress from its services.
- l) Any development which necessitates the relocation of Eskom's services will be to the account of the developer.
- m) Lungile Motsisi MosisiL@eskom.co.za, Eskom: Transmission must be contacted on 011 800 5734 to comment on behalf of the 400 kV OVERHEAD POWERLINES, NO WORK WITIN THIS SERVITUDE OR UNDERNEATH POWERLINES IS ALLOWED until comment from Eskom Transmission has been obtained.

4. **NOTE**

Wayleaves, Indemnity form (working permit) and all as-built drawings issued by Eskom to be kept on site at all times during construction period.

Yours faithfully

LAND DEVELOPMENT (BRACKENFELL)



CONSERVATION INTELLIGENCE

postal 16 17th Avenue, Voëlklip, Hermanus, 7200
 physical 16 17th Avenue, Voëlklip, Hermanus, 7200
 website www.capenature.co.za
 enquiries Rhett Smart
 telephone 087 087 8017
 email rsmart@capenature.co.za
 reference LS14/2/6/1/7/2/581-366_consent&dep_Onrus
 date 5 April 2023

Overstrand Municipality
 P.O. Box 20
 Hermanus
 7200

Attention: Henk Olivier
 By email: loretta@overstrand.gov.za

Dear Mr Olivier

FILE NO. Ptn 366/581
Onrus River
SCAN NO.
COLLABORATOR NO.
1843668

Application for Consent Use, Departure and Administrative Fine for Agricultural Industry and Institutional Use on Portion 366 of Farm Onrust River 581, Onrus, Hermanus
(Overstrand Municipality ref. no.: RCAL 366/581; 4302/2022)

CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application.

The application is for agricultural industry for processing of honey products and a children's home within existing buildings. The application will not result in an increase in the development footprint and therefore there will not be any loss of habitat. Based on the information provided the processing of the honey products will not produce any effluent or liquid waste which would need to be treated and disposed of, with the waste stream consisting of solid waste and sewage. The honey is transported to the site in bulk and therefore there are no bee hives on the site.

It should be noted that a large proportion of the property is mapped as wetland according to the National Wetland Mapping, including the southern buildings. Contamination of surface and groundwater is therefore a concern. In particular, the chicken coop and stables could be a source of pollution from animal waste, however these components are not part of the application, but the applicant should nonetheless ensure that impacts on the Onrus River and Estuary are minimized.

In conclusion, CapeNature does not object to the application.

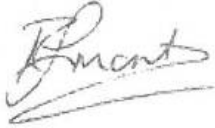
CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

The Western Cape Nature Conservation Board trading as **CapeNature**

Board Members: Associate Prof Denver Hendricks (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Ms Marguerite Loubser, Mr Mervyn Burton, Dr Colin Johnson, Prof Aubrey Reddinghuis, Mr Paul Slack

- 6 APR 2023

Yours sincerely

A handwritten signature in black ink, appearing to read "Rhett Smart", with a horizontal line underneath.

Rhett Smart
For: Manager (Landscape Conservation Intelligence)



**Western Cape
Government**



Annexure I

Transport and Public Works

Vanessa Stoffels

Chief Directorate: Road Planning

Vanessa.Stoffels@westerncape.gov.za | Tel: 021 483 4669

Ref: 16/9/6/1-21/42 (Job 23115)

MBPLAN Town Planning
27 Saffron Crescent West
ONRUS
7201

*TP. n. /heat
(V. Olivier)*

FILE NO. <i>FIN 366/581</i>
<i>Onrusrivier</i>
SCAN NO. <i>24</i>
COLLABORATOR NO. <i>1790047</i>

Attention: Ms M Buys

Dear Madam

REMAINDER OF PORTION 366 OF THE FARM ONRUST RIVER NO 581, CALEDON: PROPOSED CONSENT USE AND DEPARTURE

1. Your e-mail to Mrs V Stoffels of this Branch dated 10 October 2022.
2. The subject property is in Onrus and take access off municipal street.
3. The proposal is for the following:
 - 3.1. Consent use for an existing agricultural industry consisting of bottling of raw edible honey and the production and packaging of honey-based cosmetics and beauty products.
 - 3.2. Departure to relax the western building line 10m to 4.4m to accommodate an existing chicken coop, existing barns & stables.
 - 3.3. Consent use for institution to accommodate children`s home for indigent which provides care to a maximum of 4 children.
4. This Branch offers no objection to the proposal in terms of the Land Use Planning Act 3 of 2014.

Yours Sincerely

SW CARSTENS

For DEPUTY DIRECTOR-GENERAL: ROADS

DATE: 15 DECEMBER 2022

19 DEC 2022



Western Cape
Government

Cor Van Der Walt
LandUse Management
Email: Cor.VanderWalt@westerncape.gov.za
tel: +27 21 808 5099 fax: +27 21 808 5092

TP-A Theart
(Holivier)

OUR REFERENCE : 20/9/2/4/2/757
YOUR REFERENCE : 4302/2022
ENQUIRIES : Cor van der Walt



Overstrand Municipality
PO Box 20
HERMANUS
7200

Att: Mr. H Olivier

**APPLICATION FOR CONSENT USE, DEPARTURE AND DETERMINATION OF ADMINISTRATIVE
PENALTY: DIVISION CALEDON
PORTION 366 OF THE FARM ONRUST RIVIER NO 581**

Your application of 10 February 2023 has reference.

The Western Cape Department of Agriculture: Land Use Management has no objection to the proposed application.

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely


Mr. C.J. van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT
2023-04-26

FILE NO. Ptn 366/581
Onrust river
SCAN NO.
COLLABORATOR NO.
1852632



BREED-OLIFANTS
CATCHMENT MANAGEMENT AGENCY

TP - A Theart
(H Olivier)

Cnr Mountain Mill & East Lake Road, Worcester 6850, Private Bag X3055 Worcester 6849

Our Reference no: 4/10/1/G40H/Onrust River 581/366 Rem, Caledon

Date: 19 May 2023

Overstrand Municipality
P. O. BOX 20
HERMANUS
7200

For Attention: L. Gillion

REQUEST FOR COMMENT: PORTION 366 OF FARM 581 ONRUST RIVER – CONSENT USE, DEPARTURE AND ADMINISTRATIVE PENALTY

With reference to your initial email dated 10/02/2023 with subsequent follow-up on 13/04/2023, containing a letter requesting input by BOCMA, as well as a report by MB Town Planning, herewith the following:

1. For all developments near a watercourse, the following important aspect should be considered: The Regulated Area of a watercourse as per GN No. 40229:
 - a) *The outer edge of the 1 in 100 year flood line and/or delineated riparian habitat, whichever is the greatest distance, measured from the middle of the watercourse of a river, spring, natural channel, lake or dam;*
 - b) *In the absence of a determined 1 in 100 year flood line or riparian area the area within 100m from the edge of a watercourse where the edge of the watercourse is the first identifiable annual bank fill flood bench; or*
 - c) *A 500m radius from the delineated boundary (extent) of any wetland or pan*

The following map indicates the presence of a wetland: NFEPA – National Freshwater Ecosystems Priority Area, in blue. About 60% of the property is within a NFEPA.



Onrust River 581/366 (REM)

- Legend
- Quaternary Catchments
 - Wetlands (NFEPA)
 - Natural
 - Rivers (DWS) CLASS
 - Perennial
 - Rivers
 - Perennial
 - Non-Perennial

FILE NO. Ptn 366/581

Onrus River ✓

SCAN NO.

PTN 366

COLLABORATOR NO.

1863993

Map Center: Lon: 16 11 20.2 E
Lat: 34 24 37.2 S

Scale: 1:4 514
Date created: May 30, 2023



2. For development near or within the regulated area, ideally, authorization for Section 21 c&i water uses should be put in place.
3. In this instance, the development has already taken place, and the commitment by the current owner, is to address these contraventions and willing to rectify, albeit starting with the Land Use Planning process at least.
4. The 1:50 year flood-line, as indicated on the map by Arch: Tech Studio, should be maintained but the ideal is to have had no development within the 1:100 year flood-line, or at least 100m from the edge of a watercourse. In this case, with existing development, it would be impossible.
5. Therefore, the BOCMA would support the application, provided that no further development encroaches onto the Onrus River.
6. All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use should be adhered to.
7. Polluted storm water should be contained and managed in such a way that it does not pose an additional threat to surface- and groundwater resources.
8. Any future development should not have a detrimental impact on water resources, both surface- and groundwater resources.

Please be advised that the comment provided is in the interest of responsible water resource management. The BOCMA reserves the right to revise initial comments and request further information based on any additional information that might be received.

Please do not hesitate to contact this office if you have any further queries.

Please ensure to quote the above reference in doing so.

Yours faithfully.



JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (ACTING)